

## Cabinet

- Date and Time - **Monday 9 May 2022 – 6:30pm**
- Venue - **Council Chamber, Town Hall, Bexhill-on-Sea**
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### **Councillors appointed to the Committee:**

Councillor D.B. Oliver (Leader), S.M. Prochak, MBE (Deputy Leader), C.A. Bayliss, T.J.C. Byrne, K.P. Dixon, K.M. Field, H.L. Timpe and J. Vine-Hall

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## **AGENDA**

### **1. MINUTES**

To authorise the Leader to sign the Minutes of the meeting held on Monday 28 March 2022 as a correct record of the proceedings.

### **2. APOLOGIES FOR ABSENCE**

### **3. ADDITIONAL AGENDA ITEMS**

To consider such other items as the Leader decides are urgent and due notice of which has been given to the Head of Paid Service by 9:00am on the day of the meeting.

### **4. URGENT DECISIONS**

The Leader to give details of those reports that have been referred to the Chairman of the Council to consider designating as urgent, in accordance with Rule 17 of the Overview and Scrutiny Procedure Rules contained within Part 4 of the Council Constitution, and to which the call-in procedure will not therefore apply.

### **5. DISCLOSURE OF INTERESTS**

To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

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At the discretion of the Leader, the order of the items set out in the agenda may be varied

**This agenda can be made available in large print, Braille, audiotape/CD or in another language upon request. For all enquiries please contact [lisa.cooper@rother.gov.uk](mailto:lisa.cooper@rother.gov.uk)**

6. **REVIEW OF THE CONSTITUTION - REFERENCE FROM THE OVERVIEW AND SCRUTINY COMMITTEE** (Pages 1 - 110)
7. **MEMBER TRAINING AND DEVELOPMENT STRATEGY** (Pages 111 - 118)
8. **MEMBERS' ALLOWANCE SCHEME 2023-28** (Pages 119 - 122)

Malcolm Johnston  
Chief Executive

Agenda Despatch Date: 28 April 2022

## Rother District Council

**Report to:** Cabinet

**Date:** 9 May 2022

**Title:** Review of the Constitution – reference from the Overview and Scrutiny Committee

**Report of:** Malcolm Johnston, Chief Executive

**Cabinet Spokesperson:** Councillor Johnathan Vine-Hall

**Ward(s):** -

**Purpose of Report:** To consider the recommendations arising from the Overview and Scrutiny Committee meeting held on 25 April 2022 that considered a review of the Constitution and resulting recommendations. The report and recommendations arising are reproduced below in their entirety and the Minutes of that meeting (Appendix 4) should be read in conjunction with this report.

**Decision Type:** Key

### Reasons for

**Recommendations:** To enable proposed amendments to be considered at the Annual Council Meeting on 16 May 2022.

### Officer

**Recommendation(s):** **Recommendation to COUNCIL:** That:

- 1) all proposed amendments to the Council’s Constitution highlighted within Appendix 2, and contained within Appendices 2A-2K be approved and adopted;
- 2) the current governance model (executive / scrutiny split with no individual Cabinet Member decision making) be maintained;
- 3) a new stand-alone advisory Human Resources Committee comprising seven Members, to meet twice per year and assigned all functions relating to staffing matters that currently come under the remit of the Licensing and General Purposes Committee be created (the Licensing and General Purposes Committee to remain as currently constituted without HR related functions);
- 4) the Leader of the Council be requested to add Human Resources to their Cabinet Portfolio;
- 5) a review be undertaken by the incoming administration at the start of each new 4-year Council term, within its first year, to consider the decision-making structure and any proposals for change;
- 6) in each “normal” subsequent year following an election year, the Annual Council meeting to receive a report highlighting any changes that have been made to the Constitution in the preceding 12 months, under officer delegations or otherwise;

- 7) the Planning Advisory Services' latest Probity in Planning Guidance be automatically adopted and incorporated into the Constitution;
  - 8) that general awareness / training on the Constitution be offered to all Councillors; and
  - 9) the Centre for Governance and Scrutiny be commissioned to undertake a scrutiny improvement review during 2022/23, to be funded from the Member Training Budget, subject to the approval of the Member Development Task Group / Member Training Champion.
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## **Introduction**

1. This report proposes the draft recommendations to the Overview and Scrutiny Committee (OSC) from the Constitution Review Steering Group (CRSG). The recommendations represent the culmination of the work undertaken by the CRSG in reviewing the Council's Constitution. This work is one of the actions required to deliver the Corporate Plan aim of creating an open Council – to modernise the way the Council operates by updating the Constitution.
2. The CRSG was established in January 2021 and is made up of Councillors J. Barnes, T.J.C. Byrne, B.J. Drayson, Mrs E.M. Kirby-Green, A.S. Mier, M. Mooney, S.M. Prochak and J. Vine-Hall, was Chaired by Councillor Drayson and has met on 10 occasions to date.

## **Terms of Reference and Timescales**

3. The scope and objectives set out in the Terms of Reference for the CRSG is to modernise the way the Council operates by undertaking a complete review of the Constitution. At its first meeting, the general mission statement for the CRSG was defined as:

“To meet the Corporate Plan objective of achieving an Open Council, a revised streamlined Constitution will be created that is clear, enables increased partnership working between officers and Councillors, is easy to read and meets the needs of the Councillors, officers and residents of Rother District Council.”

4. The original timetable was not met due to other work priorities, including the 2021 local and Police and Crime Commissioner elections held in May 2021. A new timetable was agreed by the CRSG in July 2021 and again in December 2021, which aimed to have a revised constitution in place from the start of the new civic year in May 2022. It was clear once the detailed review was underway that the original timetable was simply not achievable, given the scale of the task, the detailed way the review was being undertaken and the resources available.

## **Process and Scope**

5. At the CRSG's first formal meeting, it was agreed that Members would look at other Council's Constitutions that they felt were clear and easy to read and understand. The CRSG identified and agreed that South Cambridgeshire

(SC) District Council's Constitution provided a good example and had some synergy with how this Council operated. What became clear to Members during this exercise is that there is a lot of common ground between local authorities' constitutions as most of them were created in 2000/2001 following the Local Government Act (LGA) 2000. At that time, a model constitution was provided by the Government for local authorities to work through and amend as per local arrangements, within the framework permitted under the LGA 2000.

6. The CRSG and officers undertook a detailed review by comparing RDC's Constitution against the SC model in various parts, as well as neighbouring authorities and other good practice. Relevant key service officers and the Corporate Management Team were also consulted as and when appropriate.
7. The scope of the work undertaken by the CRSG is shown at Appendix 1 which also gives details about the Parts of the Constitution which were not part of the review for the reasons given. It can be seen that Part 3, Responsibility for Functions and Part 8, Delegations to Officers are still to be completed and these will follow in the coming months.

### **Considerations and Recommendations**

8. Attached at Appendix 2 is a full list of all the main proposals which are either a deviation to current custom and practice and represent a change to the way the Council currently operates, or new provisions which are not within the Council's existing Constitution. Those that are considered worthy of special note have been highlighted. Where improvements have been made to clarify current custom and practice, these have not been detailed here.
9. Comparing different models identified several easy, quick improvements that could be made throughout the document ranging from layout changes, minor clarifications, gender neutral terminology, the use of Chair and Vice-Chair and improved use of plain English; a number of these amendments have been made throughout.

**Recommendation 1:** That all proposed amendments to the Council's Constitution highlighted within Appendix 2 and contained within Appendices 2A-2K be approved and adopted.

10. It became apparent very early on that there was not a desire to completely change the way in which the Council operated and introduce a revised governance structure, such as a return to a committee system or individual Cabinet Member decision making. Indeed, the CRSG was mindful that wholesale changes would have necessitated public consultation which would divert resources away from other priority areas and potentially jeopardise delivery of other projects within the Corporate Plan.

**Recommendation 2:** That the current governance model (executive / scrutiny split with no individual Cabinet Member decision making) be maintained.

11. Whilst no changes are proposed to the governance model, the CRSG has recommended that a stand-alone advisory Human Resources Committee be created. The Committee be scheduled to meet twice per year and comprise seven Members, to include the Leader of the Council with the Cabinet

Portfolio for Human Resources. It is considered that a separate, dedicated Committee to focus on Human Resources related issues will ensure a build-up of expertise amongst Members and an improved Member oversight in the field of staff management.

12. Member input in the appointment and dismissal processes of senior officers (not already covered by statute in respect of statutory officers) has also now been clarified within the officer employment procedure rules at Part 4-8.

**Recommendation 3:** That a new stand-alone advisory Human Resources Committee comprising seven Members, to meet twice per year and assigned all functions relating to staffing matters that currently come under the remit of the Licensing and General Purposes Committee be created (the Licensing and General Purposes Committee to remain as currently constituted without HR related functions).

**Recommendation 4:** That the Leader of the Council be requested to add Human Resources to their Portfolio.

13. The CRSG felt that it was important for any in-coming administration to consider the decision-making structure within its first year, to ensure that the inherited governance arrangements were those that the new administration wanted to operate in light of their own circumstances and political make-up; unless wholesale changes were proposed, this would very much be a light-touch review.

**Recommendation 5:** That a review be undertaken by the incoming administration at the start of each new 4-year Council term, within its first year, to consider the decision-making structure and any proposals for change.

14. In order to improve Members' knowledge and understanding of the Constitution, in each "normal" subsequent year following an election year, it is proposed that the Annual Council receives a report highlighting any changes that have been made to the Constitution in the preceding 12 months, under officer delegations or otherwise.

**Recommendation 6:** That in each "normal" subsequent year following the election year, the Annual Council meeting to receive a report highlighting any changes that have been made to the Constitution in the preceding 12 months, under officer delegations or otherwise.

15. To cut down on unnecessary reporting, it is recommended that the Planning Advisory Services' Probity in Planning Guidance which forms part of the Council's Constitution is automatically adopted and incorporated into the Constitution following the publication of any new edition. Members will be notified when a new version has been incorporated and what, if any, are the main changes.

**Recommendation 7:** That the Planning Advisory Services' latest Probity in Planning Guidance be automatically adopted and incorporated into the Constitution.

16. Through the detailed work of the CRSG it is clear that there is a need for general Member awareness of what is in the Constitution and how the Council

operates. This need has already been picked up by the Member Development Task Group and regular sessions on what is in the Constitution will be held in the future.

**Recommendation 8:** That general awareness / training on the Constitution should be offered to all Councillors.

### **Overview and Scrutiny Review**

17. Whilst looking at the various parts of the Constitution that relate to the scrutiny function, the CRSG considered the role of scrutiny and whether it adds value to the work of the Council, is as effective as it could be and clearly understood by Members.
18. As a result of the discussions contact has been made with the Centre for Governance and Scrutiny (CfGS) which promotes better governance and scrutiny, both in policy and in practice. They are a charitable organisation and support local government, the public, corporate and voluntary sectors in ensuring transparency, accountability and greater involvement in their governance processes.
19. Following an initial meeting with the Democratic Services Manager, the CfGS have submitted a proposal to undertake a scrutiny improvement review at the Council, with full details attached at Appendix 3. The cost of the review would be £4,850+VAT which can be funded from the 2022/23 Member Training Budget.
20. The CRSG has therefore recommended that this review be commissioned to take place in early 2022/23 subject to the approval of the Member Development Task Group / Member Training Champion.

**Recommendation 9:** That the CfGS be commissioned to undertake a scrutiny improvement review during 2022/23, to be funded from the Member Training Budget, subject to the approval of the Member Development Task Group / Member Training Champion.

### **Environmental Implications**

21. Rother District Council's Environment Strategy sets out the Council's vision for reducing our impact on the environment and our commitment to make Rother District carbon neutral by 2030.
22. The way the Council operates continues to change and adapt to help reduce its carbon footprint and the Constitution will continue to evolve to meet the challenge. Specifically, the Constitution now includes the introduction of hybrid meetings cutting down on unnecessary travel to and from the Town Hall for Members, officers and members of the public, removing the requirement to provide a hard copy of the Constitution to all Members and the acceptance of email correspondence for any procedural matter.

### **Risk Management**

23. The Council is required to have an up-to-date Constitution available at all times. The risk of having a Constitution that is difficult to understand may lead

to Members and officers not acting in accordance with the Constitution which could result in potential challenge, maladministration and reputational damage.

## Conclusions

24. Whilst this review has taken longer than originally anticipated, most Members serving on the CRSG have been engaged in the process and have benefitted from the in-depth review and analysis of the Constitution.
25. It is considered that whilst there are no major proposals for change there is a desire to make the Constitution easier to understand, to be more inclusive and transparent. The OSC is asked to consider the proposals and recommend these to full Council via Cabinet. The intention is to agree the amendments at the Annual Council meeting for implementation from the new civic year.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	Yes	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	Appendix 1 – Scope of work Appendix 2 – List of Main Proposals Appendix 2A – Glossary of Terms Appendix 2B – Part 1 – Summary and Explanation Appendix 2C – Part 2 – Articles 1-16 Appendix 2D – Part 4.1 – Council Procedure Rules Appendix 2E – Part 4.2 – Access to Information Rules Appendix 2F – Part 4.3 – Budget and Policy Procedure Rules Appendix 2G – Part 4.4 – Executive Procedure Rules Appendix 2H – Part 4.5 – Overview and Scrutiny Procedure Rules Appendix 2I – Part 4.8 – Officer Employment Procedure Rules Appendix 2J – Part 5.4 – Member – Officer Protocol Appendix 2K – Part 5.6 – Hybrid Meeting Protocol Appendix 3 – CfGS Review Appendix 4 – OSC Minute Extract
Relevant previous Minutes:	None.



## SCOPE OF WORK REVIEWED AND COMPLETED BY THE STEERING GROUP

SECTION OF CONSTITUTION	APPROACH
<b>PART 1 – SUMMARY AND EXPLANATION</b>	<b>Reviewed by Group</b>
<b>PART 2 – ARTICLES OF THE CONSTITUTION</b>	<b>Reviewed by Group</b>
<b>PART 3 – RESPONSIBILITY FOR FUNCTIONS</b>	<b>Officers to work on draft and bring for approval in 2022</b>
<b>PART 4 – RULES OF PROCEDURE</b> Council Procedure Rules Access to Information Procedure Rules Budget and Policy Framework Procedure Rules Executive Procedure Rules Overview and Scrutiny Procedure Rules Financial Procedure Rules  Procurement Procedure Rules  Officer Employment Procedure Rules	<b>Reviewed by Group</b> <b>Reviewed by Group</b> <b>Reviewed by Group</b> <b>Reviewed by Group</b> <b>Reviewed by Group</b> <b>Approved by Council on 7 March</b>  <b>For CFO / Procurement Hub</b>  <b>Reviewed by Group</b>
<b>PART 5 – CODES AND PROTOCOLS</b> Member's Code of Conduct  Probity in Planning  Anti-Fraud and Corruption Framework  Protocol on Member / Employee Relations  Member Job Profiles	<b>For Audit &amp; Standards Committee</b> <b>Planning Advisory Service document</b>  <b>For Audit &amp; Standards Committee</b> <b>Reviewed by Group</b>  <b>For Member Development Task Group</b>
<b>PART 6 – MEMBERS' ALLOWANCE SCHEME</b>	<b>For Independent Remuneration Panel</b>
<b>PART 7 – MANAGEMENT STRUCTURE</b>	<b>Factual – to be completed by officers</b>
<b>PART 8 – DELEGATIONS TO OFFICERS</b>	<b>Officers to work on and bring for approval in 2022</b>

## **GLOSSARY OF TERMS – NEW! (Appendix 2A)**

This is a new section at the start of the document which provides a useful glossary of terminology used within the Constitution.

## **PART 1 – SUMMARY AND EXPLANATION (Appendix 2B)**

No substantial change.

## **PART 2 – ARTICLES (Appendix 2C)**

### **Article 2 – Members of the Council**

- 2.2 Election and Terms of Councillors – **NEW!** – provides information on election and when a councillor ceases to be a councillor.
- 2.4 Conduct – includes requirement for Members of the Planning and Licensing and General Purposes Committee to have regard to current procedural guidance also.
- 2.6 Recognition of political groups – **NEW!** – provides clarity on the process of forming political groups.
- 2.7 Definitions of controlling and opposition groups – **NEW!** – provides clarity on which Members form the controlling group (currently alliance) and the Major (currently Conservatives) and Minor Opposition Groups (currently none), if any.
- 2.8 Leader of the Major Opposition Group's report to Council – **NEW!** – provides the opportunity for the Leader of the Major Opposition Group to make a written report to the Annual Council Meeting (Currently Councillor Maynard).

### **Article 3 – Citizens and the Council**

- 3.2 Citizens' Conduct – expanded slightly.

### **Article 4 – The Full Council**

No substantial change.

### **Article 5 – Chairing the Full Council**

- 5.1 Election of the Chair and Vice-Chair – **NEW!** - Chair and Vice-Chair to serve a maximum of two consecutive terms.
- 5.2 Role and Function of Chair of Rother District Council – **NEW!** – h) Chair of Council to have no rights to move, second or vote as an ex-officio Member on all Committees.
- 5.3 Role of Vice-Chair – **NEW!** – provides clarity on role.

### **Article 6 – Overview and Scrutiny Committees**

No substantial change.

### **Article 7 – The Cabinet**

- 7.2 The Leader and Deputy Leader – **NEW!** – Deputy Leader must be appointed from membership of Cabinet.

### **Article 8 – Regulatory & other Committees**

- 8.2 Mandatory requirement to undertake appropriate training – **NEW!** – inclusion here of already mandatory requirement for regulatory committee Members to receive initial and annual training to remain eligible to serve on committees.

## **Article 9 – Ethical Standards function of the Audit and Standards Committee**

9.2 Sub-Committee of the Audit and Standards Committee (Hearing Panel) – **NEW!** – provides clarity on process should an investigation into a complaint result in a Hearing.

9.3 Role and Function – **NEW!** – to include responsibility for advising on adoption, revision and monitoring the operation of the Member / Officer Protocol and the Officer Code of Conduct.

## **Article 10 - Area Committees and Forums**

No change.

## **Article 11 - Joint Arrangements**

No substantial change – amended to streamline content in Constitution.

## **Article 12 – Officers**

No substantial changes – updated to reflect new structure.

12.1 Management Structure (e) – **NEW!** – includes definition of Corporate Management Team.

12.3 Functions of the Monitoring Officer (i) – **NEW!** – to confirm provision of a Deputy Monitoring Officer.

12.4 Functions of the Chief Finance Officer (Section 151 Officer) (g) **NEW!** – to confirm provision of a Deputy Chief Finance Officer, if appropriate.

## **Article 13 – Decision Making**

13.9 Appeals – **NEW!** – to clarify custom and practice that where an appeal arises from a relevant decision, no one involved in the decision giving rise to the appeal will be involved in the appeal (where a right exists).

## **Article 14 - Finance, Contracts and Legal Matters**

No substantial changes – updated to reflect new structure.

## **Article 15 – Review and Revision of the Constitution**

15.1 Duty to Monitor and Review the Constitution – **NEW!** - proposed that this function is reassigned to the Audit and Standards Committee, and not the Overview and Scrutiny Committee as now.

15.3 Changes to the Constitution (c) – **NEW!** – Chief Executive in consultation with Chair and Leader of Council to amend Constitution in light of factual legislative changes.

## **Article 16 - Suspension, Interpretation and Publication of the Constitution**

16.3 Publication – **NEW!** – (a) to be made available on line and not in paper format to Members.

## **PART 4 – RULES OF PROCEDURE**

### **Part 4-1 – Council Procedure Rules (Appendix 2D)**

5. Appointment of Substitute Members on Committees – **NEW!** – current scheme has been incorporated into the Council Procedure Rules.
13. Notice of Motions – **NEW!** – only one Motion on notice per Member with a maximum of five at any meeting.
- 13.5 Scope – **NEW!** – for clarity.
- 13.6 Time limit – **NEW!** – 30 minutes maximum for each Motion on notice then proceed to put to the vote.
- 15.5 When a Member may speak again – **NEW!** – provision for Leader, Cabinet Member or Committee Chair to respond to a factual question directly addressed to them, at the Chair of Council's discretion.
- 15.6 Amendments to Motions (b) – **NEW!** – provision for a proposed amendment to be agreed by the original mover to be incorporated as part of original motion.
- 15.13 Point of Information – **NEW!** – allowing Members to raise a point of information in relation to incorrect information – must be able to evidence their point and only allowed at Chair's discretion.

### **Part 4-2 – Access to Information Rules (Appendix 2E)**

- 21.4 Access to information generally and privileged legal advice – **NEW!** – provides clarity on access.

### **Part 4-3 – Budget and Policy Procedure Rules (Appendix 2F)**

No substantial changes.

### **Part 4-4 – Executive Procedure Rules (Appendix 2G)**

- 7.1 Who Presides? – **NEW!** – Deputy Leader to preside in Leader's absence and have the second or casting vote, if required.
13. Steering Groups – **NEW!** – clarity on steering groups' role and composition.

### **Part 4-5 – Overview and Scrutiny Procedure Rules (Appendix 2H)**

- 6.5 Chair – **NEW!** – requirement for the Chair of any Overview and Scrutiny Committee will be an opposition Member.
19. Crime and Disorder Matters – **NEW!** – clarify the Committee's role when it sits as the Council's Crime and Disorder Committee.
20. Party-Whip – **NEW!** – rule to specifically forbid the use of a party whip at an Overview and Scrutiny Committee meeting.
21. Task and Finish Group operating guidelines – **NEW!** – for clarity.

## **Part 4-8 – Officer Employment Procedure Rules (Appendix 2I)**

3. (a) Senior Officer Appointments Panel – **NEW!** - to be convened for the appointment of Chief Officers only (CE, DCE and Director of Place and Climate Change).
5. Other Appointments – **NEW!** - Member input for other senior key officer roles the discretion of the CE.
7. Dismissals – **NEW!** - legal process to dismiss a statutory officer now detailed.
- 7.2 Posts reporting directly to the CE – **NEW!** - appeals against dismissal to Senior Officer Appointments Panel.

## **PART 5 – CODES AND PROTOCOLS**

### **Part 5-4 - Member / Officer Protocol (Appendix 2J)**

This is a completely **NEW** protocol.

### **Part 5-6 – Hybrid Meeting Protocol – Formal Meetings (Appendix 2K)**

This protocol was originally approved by Cabinet in December 2021; a number of subsequent amendments are highlighted for consideration and for completeness, it is recommended that this Protocol now be incorporated into the Constitution under Part 5, Codes and Protocols.



Proposal  
January  
2022  
Supporting scrutiny

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## Improving scrutiny through a collaborative review process

Rother District Council has established a steering group to undertake a review of the Council's constitution and is looking for expert external advice to support the Council in a review of its scrutiny function to ensure it is effective in providing a quality contribution in accountability, policy and decision making, delivery of council plans and overall improvement.

Rother District Council wants to check and test that scrutiny arrangements and effectiveness meet the council's high expectations of democratic accountability and that decision-making and overview and scrutiny is transparent, effective and impactful. It is determined to make its ongoing approach to scrutiny fresh, innovative, and bold.

It wants its overview and scrutiny structure to create the right framework to maximise its impact within its governance arrangements. The Centre for Governance & Scrutiny, as the leading national governance and scrutiny organisation, has been asked to support a member review panel to help develop its plans for the development of scrutiny. This proposal suggests the scope and approach to that support.

The council has not undertaken a comprehensive review of its scrutiny arrangements for some time and considers that this would now be valuable exercise – both in order to assure its existing practice, and to challenge it to undertake further improvements.

No council can profess excellence in scrutiny across the board – there are always areas of weakness which, left untended, can develop into flaws in scrutiny which can have a more significant impact on effectiveness overall. The CfGS review is designed to be challenging, but essentially also to be constructive in suggesting ways to drive forward improvement.

### Outline

This will be a short, simple 'step-back' review. It is not an inspection or audit of scrutiny. It will seek to help improvement through an evidence-based assessment which will involve exploring the following

- **Culture.** The relationships, communication and behaviours underpinning the operation of the overview and scrutiny process. This will also involve the Council's corporate approach, organisational commitment, and status of scrutiny.
- **Member engagement.** Are members motivated and engaged. How do they participate, take responsibility, and self-manage their role?
- **Member skills and application.** Are skills up-to-date and can Members participate fully or are there development gaps?
- **Information.** How information is prepared, shared, accessed and used in the service of the scrutiny function.
- **Impact.** Ways to ensure that scrutiny is effective, that it makes a tangible and positive difference to the effectiveness of the council, and to local people.
- **Focus.** How prioritisation, timeliness and relevance of the work programme and agendas lead to value-adding and productivity.
- **Structure.** Formats used by scrutiny to carry out its works and their effectiveness.

This review build its understanding through conversations with Members and Officers, observation of meetings (recordings or live online), a review of key documents; agendas, work programmes etc and a short member survey.

A feedback letter will summarise findings and propose areas to improve.

A Member development workshop will facilitate Members, to explore the findings and suggested improvements. Members will be expected to work on and deliver aspects of improvement.

### Objectives

This methodology aligns with both latest statutory guidance and best practice experience accumulated by CfGS over many years. This review will therefore evaluate the council's approach to scrutiny in the light of the guidance and best-practice.

It will help to explore with Members ways to improve scrutiny

Any Member development needs can be addressed following the review.

### Timescale

The anticipated timescale is 2-3 days evidence gathering, observation and assessment. 1-day feedback letter and workshop preparation. 0.5 days Members feedback and action- planning workshop.

### Costings

£4850+vat

### About CfGS and delivery

CfGS is the leading national body promoting and supporting excellence in governance and scrutiny. As a charity, our work has a strong track record of influencing policy and practice nationally and locally. CfGS provides training, consultancy and conferences. We are respected and trusted to provide independent and impartial advice.

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OSC21/60. **REVIEW OF THE CONSTITUTION, RECOMMENDATIONS OF THE  
(5) CONSTITUTION REVIEW STEERING GROUP**

Members received and considered the report of the Chief Executive which detailed the recommendations of the Constitution Review Steering Group (CRSG). Councillor Drayson, the CRSG Chairman thanked his fellow CRSG Members and other Members who had attended the meetings for their contributions, as well as officers who had supported the meetings.

The recommendations represented the culmination of the work undertaken by the CRSG in reviewing the Council's Constitution. One of the actions required to deliver the Corporate Plan's aim of creating an open Council was to modernise the way the Council operated by updating the Constitution.

The CRSG and officers undertook a thorough review by comparing Rother District Council's Constitution against South Cambridgeshire District Council's model in various parts, which had some synergy with how this Council operated, as well as neighbouring authorities' constitutions and other good practice. Relevant key service officers and the Corporate Management Team were also consulted as and when appropriate.

Appendix 1 to the report identified the scope of work undertaken. Part 3, Responsibility for Functions and Part 8, Delegations to Officers were still to be completed and these would follow in the coming months. A full list of the main proposals was identified at Appendix 2 to the report and Appendices 2A to 2K listed each section of the constitution, with the recommended changes highlighted in red text.

During the discussion the following salient points were noted:

- grammatical / spelling errors would be amended;
- quoracy at meetings only related to those Members who were present in the Council Chamber (not remote); the Council Procedure Rules would be amended to clarify this;
- the following question was raised regarding Article 2.8: should Leaders of Minor Opposition Groups also report to the Council, where the opposition groups were not in coalition? Recommendation 6) clarified that the year following an election year, the Council would receive a report highlighting any changes made to the Constitution. Dependent on the make-up of the Council, it was suggested that this would be the most sensible / opportune time to consider this type of amendment;
- important that all Members (not just Members of the Overview and Scrutiny Committee) understood the functions and role of scrutiny;
- clarity was sought regarding the opportunity to raise "matters arising" questions at formal meetings and whether this required an alteration to the Constitution. It was understood that a five working day notice period was required. The Chief Executive advised that it depended on the matter, as the answer could be a simple 'Yes' or 'No, or it might require a detailed response. It was important that

agendas were open, transparent and adhered too, otherwise there was the potential that they could become unwieldy and cumbersome. Members were reminded that minutes could only be challenged / altered if factual inaccuracies were found. Questions raised by Members would be answered promptly;

- it was clarified that the Chair of the Council would be annually elected, however the same Councillor could be elected to serve for a two-year consecutive period; and
- the Constitution was a living document and could and would be updated / amended as and when appropriate.

After discussion, it was agreed that all of the recommendations be approved for Cabinet and then full Council ratification.

**RESOLVED:** That the Overview and Scrutiny Committee recommends to Cabinet and then full Council:

- 1) all proposed amendments to the Council's Constitution highlighted within Appendix 2 to the report, and contained within Appendices 2A-2K be approved and adopted;
- 2) the current governance model (executive / scrutiny split with no individual Cabinet Member decision making) be maintained;
- 3) a new stand-alone advisory Human Resources Committee comprising seven Members, to meet twice per year and assigned all functions relating to staffing matters that currently come under the remit of the Licensing and General Purposes Committee be created (the Licensing and General Purposes Committee to remain as currently constituted without HR related functions);
- 4) the Leader of the Council be requested to add Human Resources to their Cabinet Portfolio;
- 5) a review be undertaken by the incoming administration at the start of each new 4-year Council term, within its first year, to consider the decision-making structure and any proposals for change;
- 6) in each "normal" subsequent year following an election year, the Annual Council meeting to receive a report highlighting any changes that have been made to the Constitution in the preceding 12 months, under officer delegations or otherwise;
- 7) the Planning Advisory Services' latest Probity in Planning Guidance be automatically adopted and incorporated into the Constitution;
- 8) that general awareness / training on the Constitution be offered to all Councillors; and
- 9) the Centre for Governance and Scrutiny be commissioned to undertake a scrutiny improvement review during 2022/23, to be funded from the Member Training Budget, subject to the approval of the Member Development Task Group / Member Training Champion.

# GLOSSARY OF TERMS

Throughout the Constitution the following words and expressions are used; the definition of each is detailed below:

TERM	DEFINITION
<b>Access to Information Rules</b>	Provisions that apply to all principal councils that provide the public and press with access to meetings and connected papers of the Council, its committees and sub committees, unless confidential or exempt information is likely to be disclosed.
<b>Allowances</b>	Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.
<b>Articles</b>	The basic rules within the Constitution which govern the operation of the Council's business.
<b>Background Papers</b>	Papers containing facts or matters on which the report author thinks the report or an important part of it is based, or which in their opinion are relied on to a material extent in preparing the report.
<b>Budget</b>	The allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and council house rents and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
<b>Budget and Policy Framework</b>	The plans and strategies and budget which shall be adopted by the full Council and within which Cabinet shall operate.
<b>Cabinet</b>	The Leader elected by the Council and up to nine other Councillors chosen by the Leader to form a Cabinet with legal powers and responsibilities for discharging executive functions, including the day-to-day management of the Council's business in line with the policy framework and budget approved by the Council.
<b>Call-in</b>	<p>The mechanism by which the Overview and Scrutiny Committee can review or challenge decisions made by the Cabinet, which are not yet implemented.</p> <p>Call-in may be requested by the Chair of the Overview and Scrutiny Committee or any two non-Cabinet Members, one of whom must have been present (in person) at the Cabinet meeting.</p>
<b>Chair</b>	<p>The person appointed to preside at meetings of any constituted body.</p> <p>The Constitution refers throughout to "The Chair", whether of the Council or any committee or sub-committee or, by analogy, any Steering or Task &amp; Finish Group. Any Chair may, however, wish to be referred to as "Chairman", "Chairwoman"</p>

TERM	DEFINITION
	<p>or “Chairperson” or some other related term, at any meeting at which they preside and all Members or other persons speaking at the meeting shall respect that wish.</p> <p>Notwithstanding this, unless Council determines otherwise, minutes of all meetings and all references in one meeting to the Chair shall continue to use the word “Chair”.</p> <p>The same principle shall apply to the Vice-Chair.</p>
<b>Chair of the Council</b>	A civic “non-political” role elected by the Council on an annual basis. To run full Council meetings and represent the Council at various functions of a civic, community and ceremonial nature.
<b>Chief Executive</b>	The officer with overall corporate management and operational responsibility (including overall management responsibility for all officers). This officer is also the Head of Paid Service.
<b>Chief Finance Officer</b>	The officer appointed by the Council under Section 151 of the Local Government Act 1972, to exercise the proper administration of the Council’s financial affairs, with specific responsibilities under the Local Government Act 1972. Also known as the “Section 151 Officer”. This is a statutory officer role.
<b>Chief Officers</b>	The Chief Executive, Deputy Chief Executive and Monitoring Officer and Director – Place and Climate Change, as defined in Article 12 of the Constitution.
<b>Clear Working Days</b>	All agendas and papers for decision shall be available five clear working days before the decision is taken (special rules may apply to urgent late items). A clear working day excludes Saturday, Sunday or Bank and Public Holidays and does not include the day the papers are sent out or the date of the meeting.
<b>Code of Conduct</b>	All Councillors are required to abide by a Code of Conduct (CoC) adopted by the Council which sets out the standards of conduct expected by them. The CoC applies to all Councillors of the Council. The CoC for Councillors can be found in Part 5 – 1 of the Constitution.
<b>Committee</b>	Committees are appointed to carry out functions delegated to them by the Council or Cabinet.
<b>Confidential Information</b>	<p>Confidential information means:</p> <ul style="list-style-type: none"> <li>• information provided to the Council by a Government department on terms which forbid the disclosure of the information to the public; and</li> <li>• information which is prohibited from being disclosed by any enactment or by a court order.</li> </ul>
<b>Constitution</b>	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 law, while others are a matter for the Council to choose.

TERM	DEFINITION
<b>Controlling Group</b>	The political group or groups of the Council whose members have been appointed to the Cabinet by the Leader of the Council shall be identified as the Controlling Group or Groups.
<b>Corporate Management Team</b>	The senior officer team responsible for the operational management of the Authority and comprising the Chief Executive, Deputy Chief Executive and Monitoring Officer, Director – Place and Climate Change, Chief Finance Officer and all Heads of Service.
<b>Councillor</b>	Person elected on the Council to serve a ward; usually known as a “Member”. Councillors are elected to serve a four year term.
<b>Council</b>	Rother District Council comprises of 38 elected Members, elected every four years.
<b>Decision</b>	When a matter is ultimately taken by the appropriate decision maker. A recommendation is not a decision.
<b>Delegation</b>	The Leader of the Council, or the Council, may delegate the exercise of their statutory functions to committees or officers, whilst also retaining the power to carry out the function themselves. Officers who have been given delegated powers may also authorise other officers to carry out all, or part of, their delegated authority on their behalf.
<b>Deputy Leader</b>	Annually appointed by the Leader of the Council to assist the Leader in formal processes and matters of leadership of the authority. To represent the Council and the political administration in the community and elsewhere as required by the Leader and to deputise for the Leader in their absence.
<b>District Council</b>	Rother District Council, sometimes referred to as “the Authority”.
<b>Employee</b>	A collective term for all persons employed by the Council to carry out any function.
<b>Exempt Information</b>	Information falling into one of seven categories listed in the Access to Information Procedure Rules (Part 4 of Constitution) which usually may not be publicly disclosed.
<b>Executive</b>	The Leader and Cabinet; responsible for carrying out most of the Council’s functions. Known as the “Cabinet” in Rother District Council and shall comprise the Leader and up to nine Councillors elected by the Leader.
<b>Executive Functions</b>	The responsibilities of the Cabinet.
<b>Ex-officio</b>	The Chair of the Council to be an ex-officio Member on all Committees (excluding Cabinet), but not have any rights to move or second motions or vote.
<b>Forward Plan</b>	Prepared by the Leader to cover a 4-month period containing all decisions (including key decisions) to be taken by the Cabinet.
<b>Full Council</b>	Full Council is made up of all 38 Councillors in the Rother District. Meetings of the full Council are held in public and are chaired by the Chair of the Council.

TERM	DEFINITION
<b>Head of Paid Service</b>	The most senior officer of the Council, with overall responsibility for the management and operation of the Council. The Chief Executive is the “Head of Paid Service” at Rother District Council. This is a statutory officer role.
<b>Head of Service</b>	Senior officers who report to the Chief Executive, Deputy Chief Executive, Director – Place and Climate Change and are responsible for the effective management, delivery and performance of the services and functions within their specific corporate areas of responsibility.
<b>Independent Persons (Audit)</b>	The Council has appointed one Independent Person to assist the Authority in matters of an audit nature, risk management, corporate governance, performance management and financial governance.
<b>Independent Persons (Standards)</b>	The Council is required, under the provisions of the Localism Act 2011, to appoint at least one Independent Person to assist the Authority in promoting and maintaining high standards of conduct amongst its Councillors.
<b>Key Decision</b>	A decision by the Cabinet which is likely either to incur significant expenditure or make significant savings (£100,000) or to have a significant impact on those living or working in two or more wards. Decisions must be made in line with the Council’s overall policies and budget.
<b>Lead Cabinet Member</b>	The Cabinet Member appointed by the Leader to have responsibility for ensuring the effective management of a particular area of the Council’s work (sometimes referred to as a “portfolio”).
<b>Leader of the Council</b>	The person elected by the Council to be its Leader (4-year term) with powers outlined in the Local Government Act 2000 (as amended). Appoints the Deputy Leader and Cabinet and chairs Cabinet meetings.
<b>Major Opposition Group</b>	The political group with the largest number of seats on the Council and whose members have not been appointed to the Cabinet by the Leader of the Council shall be identified as the Major Opposition Group.
<b>Meeting</b>	A meeting of the Council or the Cabinet, a Committee or of a Sub-Committee.
<b>Member</b>	See Councillor above.
<b>Minor Opposition Groups</b>	Other political groups with seats on the Council and whose members have not been appointed to the Cabinet by the Leader of the Council shall be identified as Minor Opposition Groups.
<b>Monitoring Officer</b>	The officer appointed by the Council in accordance with Section 5 of the Local Government and Housing Act 1989 to promote and maintain high standards of fairness and decision making. The Monitoring Officer is currently the Deputy Chief Executive.

TERM	DEFINITION
<b>Motion</b>	A motion is a proposal put forward for debate or decision. A motion shall be moved and seconded before it may be debated. It shall be expressed as a motion in positive terms to adopt a certain course of action or to do some act or to declare a particular attitude.
<b>Nem Con Vote</b>	No one voting against.
<b>Non-Executive Functions</b>	Those responsibilities of the Council, Committees and Sub-Committees which cannot be discharged by the Cabinet, along with those local choice functions decided by the Council pursuant to regulations made by the Government under the 2000 Act.
<b>Notice of Key Decisions</b>	A plan setting out key decisions (as defined in Article 13) which are expected to be taken by the Cabinet over the coming months. The plan is published on the Council's website and is available at least 28 days before a decision is made. Also referred to as the "Forward Plan".
<b>Officers</b>	A person employed or appointed as a member of staff and implements policy decisions made by Councillors.
<b>Outside Body</b>	Statutory bodies, charities and voluntary organisations, partnership bodies, local government associations, companies and other external organisations to which the Council appoints representatives.
<b>Overview and Scrutiny Committee</b>	Committee established to assist in the development of policy and to hold the Cabinet and other executive decision takers to account by questioning, challenging and monitoring its performance.
<b>Policy Framework</b>	The plans and strategies set out in Article 4 which shall be adopted by the full Council and within which the Cabinet shall operate.
<b>Political Groups</b>	Any two or more Councillors notifying the Chief Executive in the appropriate form is considered a political group for the purpose of seat allocation.
<b>Public</b>	Local people i.e. those that have a connection with the District.
<b>Public Speaking Scheme</b>	The Scheme setting out how members of the public may speak at Planning Committee meetings.
<b>Quorum</b>	The minimum number of Councillors who shall be present before a meeting may take place.
<b>Regulatory Committee</b>	A committee undertaking functions of the Council (such as Licensing or Planning).
<b>Scheme of Delegation</b>	The documents in Part 8 of the Constitution which set out which officers are responsible for particular functions of the Council.
<b>Section 151 Officer</b>	See Chief Finance Officer above.
<b>Senior Officer</b>	Officers that report directly to the Chief Executive.

TERM	DEFINITION
<b>Statutory Officers</b>	This refers to the three statutory posts of Chief Executive (Head of Paid Service), the Monitoring Officer and the Section 151 (Chief Finance Officer).
<b>Substantive Motion</b>	The original motion or one that has been amended and is put forward for decision.
<b>Substitute</b>	A person who is appointed to attend a formal committee or sub-committee meeting in place of a member of their political group where that person is unable to attend themselves. Substitutes are appointed to Licensing and General Purposes, Overview and Scrutiny and Planning Committees only.
<b>Summons</b>	The term used to describe the agenda for the full Council meeting.
<b>The Authority</b>	Rother District Council or the District Council.
<b>Vice-Chair</b>	<p>The person appointed to preside, in the absence of the Chair, at meetings. In the case of the Vice-Chair of Council, the post holder shall also deputise for the Chair of the Council at civic and ceremonial events, from time to time, as required.</p> <p>See definition for “Chair” above as to the right of the individual holding the office to request to be called by some other title.</p>
<b>Virement</b>	Moving budget funds from one area of expenditure to another within a financial year.
<b>Ward</b>	An area within the Rother District which has one or more Members elected to represent the area and the electorate.



# PART 1 SUMMARY AND EXPLANATION

## 1. What is the Constitution?

- 1.1 The Constitution of Rother District Council 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 law, while others are a matter for the Council to choose.
- 1.2 References to legislation including statutory instruments contained within this Constitution may have been superseded and therefore substituted by changes derived from the European (Withdrawal) Act 2018 (“the Act”) and subordinate legislation introduced following the United Kingdom’s exit from the European Union.

## 2. How the Council operates

- 2.1 The Council consists of 38 Councillors elected every four years and are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.2 All Councillors meet together as the Council, where they decide the Council’s overall policy framework and set the budget each year; meetings of the Council are normally open to the public. The policies and procedures adopted by the Council provide the rules under which the Council operates; policies are usually developed and or amended to reflect the values of the Council’s administration, through the Council’s overview and scrutiny function and consultation with relevant stakeholders.
- 2.3 The Council appoints the Leader to serve for a term of four years who in turn appoints a Deputy Leader and Members to the Executive (Cabinet).
- 2.4 Councillors must agree to follow the code of conduct adopted by the Council to ensure high standards in the way they undertake their duties.

## 3. How decisions are made

- 3.1 The Executive (Cabinet) is the part of the Council which is responsible for most day-to-day decisions. The Leader is responsible for the allocation and discharge of all executive functions (i.e. what Cabinet portfolios will exist, how they will be allocated and delegations etc.).
- 3.2 All meetings of the Executive will be open for the public to attend except where exempt information or confidential matters are being discussed. If the Executive wishes to hold a meeting or part thereof in private, public notice must be given to allow the public to make representations about why the proposed meeting or part thereof should be open to the public. Further details can be found at Part 4-2, Access to Information Rules of this Constitution.

- 3.3 When key decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. Key decisions include any Executive decision which is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant (£100,000) having regard to the local authority's budget for the service or function to which the decision relates; or be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

#### **4. Overview and scrutiny**

- 4.1 The Council shall appoint at least one overview and scrutiny committee which may pre-scrutinise and review the decisions of the Cabinet. Overview and scrutiny committees may make reports and recommendations to the Cabinet and to the Council on policies, budget and service delivery.
- 4.2 They may involve non-councillors from other public bodies, voluntary and community groups in their work and undertake enquiries into matters of local concern.
- 4.3 Overview and scrutiny committees also monitor the decisions of the Cabinet and may call-in a decision which has been made, but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. Overview and scrutiny committees may also be consulted by the Cabinet or the Council on forthcoming decisions.

#### **5. The Council's Officers**

- 5.1 The Council has people working for it called officers to give advice, implement collective decisions and manage the day-to-day delivery of its services. **Officers and councillors work together within a protocol that governs their working relationships (see Part 5 Codes and Protocols).** Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

#### **6. Citizens' Rights**

- 6.1 Citizens have a number of rights in their dealings with the Council. These are set out in Article 3.

# Article 1 – The Constitution

## 1.1 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making through consultation with the community and the Council's partners;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively and in an open manner so that all decisions are made in public whenever possible;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) provide a means of improving the delivery of services to the community; and
- (i) promote understanding of the Council and its work.

## 1.2 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## 1.3 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

# Article 2 – Members of the Council

## 2.1 Composition and Eligibility

- (a) **Composition:** The Council comprises 38 Councillors. One or more Councillors are elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by Parliament.
- (b) **Eligibility:** Only registered voters of the District or those living or working there are eligible to hold the office of Councillor.

## 2.2 Election and Terms of Councillors

The regular election of Councillors is held on the first Thursday in May every four years. The term of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next following regular election.

A councillor shall cease to be a councillor if:

- (a) they resign by giving written notice to the proper officer (such resignation to take effect upon the receipt of such notice by the proper officer); or
- (b) they fail to attend meetings of the Council for a period of six months, unless the failure was due to a reason approved by the authority; or
- (c) they cease to be qualified to be a member of the authority or become disqualified from being a member of the authority; or
- (d) they come to the end of the term of office for which they were elected and have not been re-elected.

## 2.3 Roles and Functions of all Councillors

- (a) **Key Roles:** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (iii) effectively represent the interests of their Ward and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council;
  - (vi) **be available to represent the Council on other bodies;** and
  - (vii) maintain the highest standards of conduct and ethics.
- (b) **Rights and Duties**
  - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
  - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it; and
  - (iii) for these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution and **shall have**

regard to the current procedural guidance for members of the Planning and Licensing and General Purposes Committee adopted by the Council.

## **2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## **2.6 Recognition of political groups**

Members shall be entitled to join political groups. In accordance with the Local Government (Committees and Political Groups) Regulations 1990. A political group shall be treated as constituted when there is delivered to the Proper Officer a notice in writing which:

- (a) is signed by two or more members of the Council who wish to be treated as a political group;
- (b) states that members of the Council who have signed wish to be treated as a political group;
- (c) states the name of the political group;
- (d) states the name of the member who shall be the Leader of the political group.

## **2.7 Definitions of Controlling and Opposition Groups**

The political group or groups of the Council whose members have been appointed to the Cabinet by the Leader of the Council shall be identified as the Controlling Group or Groups. For the purposes of political control, the Cabinet shall collectively be identified as the Executive.

The political group with the largest number of seats on the Council and whose members have not been appointed to the Cabinet by the Leader of the Council shall be identified as the Major Opposition Group.

Other political groups with seats on the Council and whose members have not been appointed to the Cabinet by the Leader of the Council shall be identified as Minor Opposition Groups.

## **2.8 Leader of the Major Opposition Group's report to Council**

The Leader of the Major Opposition Group may make a written report to the Annual Meeting of Council.

# **Article 3 – Citizens and The Council**

## **3.1 Citizens' Rights**

Citizens have the right to:

- vote at local elections if they are registered;

- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, Cabinet, Committees and Sub-Committees except where, for example, personal or confidential matters are being discussed;
- speak at Planning Committee meetings in accordance with the provisions of the **public speaking procedure**;
- petition to request a referendum on a mayoral form of Executive;
- submit a petition in accordance with the Council's Petition Scheme under the Council's Petition Scheme, if it includes 10 or more signatures. A petition may be signed by anyone living, working or studying in the Rother District;
- participate in the Council's question time and contribute, by invitation, to investigations by Overview and Scrutiny Committees;
- find out, from the Executive's Forward Plan, what key decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- attend public meetings of the Executive when both key and non-key decisions are being discussed or decided;
- with the knowledge of all persons present at a meeting, record, broadcast and report meetings of the Council that are open to the public;
- make representations about why proposed private Executive meetings or part thereof should be open to the public;
- see reports and background papers, and any records of decisions made by the Council and Executive, excluding exempt or confidential information;
- complain to the Council if they are dissatisfied with the action or lack of action taken by the Council on a matter which is the Council's responsibility in accordance with the Council's Corporate Complaints Procedure;
- complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Parish, Town or District Councillor has not observed the relevant Members' Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

### **3.2 Citizens' Conduct**

**Citizens are expected to treat councillors, officers and others providing services with respect. The Council will not tolerate abusive or threatening behaviour or damage to**

Council property. The Council asks that citizens remain polite and patient and use the complaints procedure if aggrieved.

## Article 4 – The Full Council

### 4.1 The Full Council

The Full Council is a meeting of the 38 councillors representing Wards in Rother District Council. It is chaired by the Chair of the Council and managed in accordance with the formal Council Procedure Rules in Part 4 of this Constitution.

### 4.2 Functions of the Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget **with the exception of the calculation and approval of the council tax base, which is delegated to the Chief Finance Officer;**
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
- (d) electing appointing the Leader of the Council and, in certain circumstances, removing the Leader;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (f) approving the list of outside bodies and making appointments thereto, unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting an Allowances Scheme under Article 2.5;
- (h) changing the name of the area;
- (i) confirming the appointment of the Head of Paid Service **the Monitoring Officer and the Chief Finance Officer (Section 151 Officer) and taking the final decision to dismiss the Head of Paid Service, Chief Finance Officer and Monitoring Officer;**
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) **adopting a Code of Conduct and agreeing any amendments to it;**
- (l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself or its Regulatory Committees rather than the Executive; and
- (m) all other matters which, by law, must be reserved to Council.

### 4.3 Meanings

- (a) **Policy Framework: The policy framework means those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to be adopted by the Council, other plans and strategies which the Ministry of Housing, Communities and Local Government recommends should be**

adopted by the Council as part of the policy framework and all other policies and strategies which the Council adopts as a matter of local choice, including but not limited to:

- The Corporate Plan, setting out the Council's key objectives
- Environment Strategy
- Crime and Disorder Reduction Strategy
- Plans and strategies which together comprise the Local Development Framework
- Annual Pay Policy Statement
- Food Law Enforcement Plan
- The plan and strategy which comprise the Housing Investment Programme

- (b) Budget: The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

#### **4.4 Council Meetings**

There are three types of Council meeting:

- (a) the Annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.5 Responsibility for Functions**

The Council will maintain the schedules in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

## **Article 5 - Chairing the Full Council**

### **5.1 Election of the Chair and Vice-Chair**

At its annual meeting the full Council will elect one of their number by secret ballot to chair the Council for the ensuing year. It will also elect a deputy. Neither of these offices can be held for more than two terms consecutively. The Councillor elected as Chair will serve as the first citizen of the Rother District.

### **5.2 Role and Function of the Chair of Rother District Council**

The Chair will have the following responsibilities:

- (a) to be the Civic Leader of Rother District Council and to represent the Council at various functions of a civic, community and ceremonial nature;



- (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (c) to preside over meetings of the **Full Council** so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (d) to ensure that the **Full Council** meeting is the forum for debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account;
- (e) to promote public involvement in the Council's activities;
- (f) to be the conscience of the Council;
- (g) to attend such civic and ceremonial functions as the Council and the Chair determines appropriate; and
- (h) **to be an ex-officio Member on all Committees (excluding Cabinet) with no rights to move, second or vote on any Committee.**

### **5.3 Role of the Vice-Chair**

**The Vice-Chair shall to deputise, as necessary, for the Chair of the Council.**

## **Article 6 – Overview and Scrutiny Committees**

### **6.1 Terms of Reference**

The Council will appoint at least one Overview and Scrutiny Committee to discharge the functions conferred by Section 9F-9FI of the Local Government Act 2000.

### **6.2 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 Council and/or the **Cabinet** and/or any joint or area Committee in connection with the discharge of any of the functions of the Council or the **Cabinet**, as appropriate;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the **Cabinet** and/or any Area Committees appointed.

### **6.3 Specific Functions**

#### **(a) Policy Development and Review: Overview and Scrutiny Committees shall may:**

- (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) engage with and question Members of the **Cabinet** and / or **Chief Executive, Deputy Chief Executive, Director of Place and Climate Change** and Heads of

- Service or such other officers as may be determined by the **Chief Executive**, 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.

**(b) Scrutiny: Overview and Scrutiny Committees may:**

- (i) review and scrutinise the decisions made by and the performance of the **Cabinet** and/or Council officers both in relation to individual decisions and the impact of those decisions 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) engage with and question Members of the **Cabinet, Chief Executive, Deputy Chief Executive, Director of Place and Climate Change** and Heads of Service or such other officers as may be determined by the **Chief Executive**, 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 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 Committee and residents about their activities and performance; and
- (vi) engage with and question and gather evidence from any person (with their consent).
- (c) Finance: Overview and Scrutiny Committees may exercise overall responsibility for any finances made available to it.
- (d) Annual Report: Overview and Scrutiny Committees must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## **6.4 Proceedings of Overview and Scrutiny Committee**

Overview and Scrutiny Committees and any appointed formal Sub-Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

# **Article 7 – The Cabinet**

## **7.1 Role**

The **Cabinet** will carry out all of the Local Authority's functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

## **7.2 Form and Composition**

The **Cabinet** will consist of the **Leader of the Council** together with such other number of Councillors as determined and appointed by the Leader of the Council

normally at its Annual Meeting, being at least two but not more than 10 Councillors. The **Cabinet** cannot include either the Chair or Vice-Chair of Council. **Subsequent changes to the membership of the Cabinet may be made by the Leader and shall take effect immediately upon the receipt of written notice of the appointment by the Chief Executive.**

### **7.3 The Leader and Deputy Leader**

The Leader will be a Councillor elected to the position by the Council at its first Annual meeting following a whole-Council election. The Leader's term of office will be four years and starts on the day of their election as Leader and ends on the day of the post-election annual meeting which follows their election as leader; or until:

- (a) they resign from the office; or
- (b) they are no longer a Councillor; or
- (c) they are removed from office by resolution of the Council.

**The Leader shall appoint one member of the Cabinet to be the Deputy Leader to assume the full powers of the Leader in any circumstances in which the Leader is unable to act. The Deputy Leader shall also act as Leader if the post of Leader is vacant. The Deputy Leader shall hold office in accordance with the provisions of Article 7.4 below.**

### **7.4 The Deputy Leader and other Executive Members**

**The Deputy Leader and other Executive Members shall be Councillors appointed annually to the position by the Leader of the Council normally at its Annual meeting, and will hold office until:**

- (a) they resign from office; or
- (b) they are no longer Councillors; or  
they are removed from office, either individually or collectively, by the Leader of the Council who must give written notice to the Head of Paid Service. The removal will be effective immediately on receipt of the notice by the Head of Paid Service.

### **7.5 Vacancies – Leader and Deputy Leader**

- (a) **When a vacancy arises in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at a subsequent meeting. The councillor appointed to fill the vacancy shall hold office for the remainder of the original term, subject the provisions of Article 7.3 (b) above.**
- (b) **When a vacancy arises in the office of Deputy Leader or a member of the Cabinet, the Leader shall appoint a councillor to fill the vacancy and shall inform the Council of the appointment at the next meeting. The councillor(s) appointed shall be subject to the terms of office in Article 7.4 above.**

### **7.6 Allocation of Portfolios**

The Leader of the Council shall normally at the Annual Council meeting allocate such portfolios as **they** consider appropriate to the Members of the Executive. **The current portfolios and descriptions can be found at the following link: [insert link].**

## 7.7 Proceedings of the Executive

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

## 7.8 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out which Committees of the Executive, officers or joint arrangements, if any, are responsible for the exercise of particular Executive functions.

# Article 8 – Regulatory & other Committees

## 8.1 Regulatory and Other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution - Responsibility for Functions - to discharge the functions described therein.

## 8.2 Mandatory requirement to undertake appropriate training

No Councillor shall be eligible to sit on a regulatory committee, either as a substantive or substitute member and vote unless and until they have undertaken suitable training upon appointment to such committee. To remain eligible Members must undertake both initial and annual suitable refresher training, identified by agreement between the relevant Director/Head of Service and Committee Chair. A record of attendance at training events will be maintained by Democratic Services as evidence that each Member's training requirement has been met.

# Article 9 – Ethical Standards function of the Audit and Standards Committee

The roles and functions of the Audit and Standards Committee relating to the Audit function is set out in Part 3 of this Constitution.

## 9.1 Composition

- a) The Council has established the Audit and Standards Committee to advise it and exercise the functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act. The composition is as set out in Part 3 of this Constitution to discharge the functions described in Article 9.3 below.
- b) The Audit and Standards Committee shall make an annual report to Full Council on its business in relation to ethical standards matters.
- c) Independent Person(s):
  - i) The Council shall appoint one or more Independent Persons as required under Section 28(7) of the Localism Act 2011;

- ii) The Independent Person shall have the right to attend meetings of the Audit and Standards Committee when ethical standards matters are on the agenda, and any Sub-Committee / Panel established to consider ethical standards matters, but shall not be entitled to vote at meetings;
- iii) The Independent Persons' view will be sought by the Council's Monitoring Officer before **they** make a decision on an allegation which **they** have decided shall be investigated. The Independent Persons' views may be sought by the Council's Monitoring Officer at any other stage, or by a Subject Member, or a Member or co-opted Member of a Parish or Town Council within the District, against whom an allegation has been made that they have breached the Code of Conduct.
- iv) The term of office for the Independent Persons will be fixed for four years. Independent persons may reapply on expiry of their current term **for a maximum of two terms**.

## **9.2 Sub-Committee of the Audit and Standards Committee (Hearing Panel)**

The Audit and Standards Committee will appoint a sub-committee known as a Hearing Panel for the purpose of:

- (a) considering an Investigating Officer's final report in cases where it is concluded that a councillor has failed to comply with the relevant Code of Conduct; and
- (b) considering what sanctions to impose, if any, in accordance with the Council's Hearing Procedure.

## **9.3 Role and Function**

The Audit and Standards Committee when fulfilling the ethical standards matters will have the following roles and functions:

- (a) promoting and maintaining the highest standard of conduct by Councillors and co-opted Members;
- (b) assisting Councillors and 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 **and any other codes and protocols relating to standards of conduct throughout the Council, including the protocol on Member / Officer Protocol and the Officer Code of Conduct;**
- (d) monitoring the operation of the Members' Code of Conduct **and any other codes and protocols relating to standards of conduct throughout the Council, including the protocol on Member / Officer Protocol and the Officer Code of Conduct;**
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) putting in place arrangements to investigate and make decisions on complaints in relation to allegations that a Member or co-opted Member of the authority as failed to comply with the Code of Conduct;
- (g) the exercise of (a) to (f) above in relation to the Parish and Town Councils wholly or mainly in its area and the Members of those councils;

- (h) maintaining an overview of dispensations granted to councillors and co-opted members from requirements relating to interests set out in Members' Code of Conduct;
- (i) advising the Council on the appointment of Independent Persons; and
- (j) overview of all Council complaints handling and Local Government and Social Care Ombudsman investigations, including the power to make payments or other benefits in cases of maladministration etc. (Section 92 of the Local Government Act 2000).

## Article 10 - Area Committees and Forums

### 10.1 Area Committees

The Council may appoint Area Committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The Council will consult with relevant Parish and Town Councils and the Chairmen of relevant Parish meetings when considering whether and how to establish Area Committees.

## Article 11 - Joint Arrangements

### 11.1 Promoting well-being through partnership

The Council or the Cabinet, in order to promote the economic, health, 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.

### 11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Executive 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 Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.
- (c) The details of any such arrangements entered into will be found on the Council's website at the following link: [INSERT LINK]

### 11.3 Delegation to and from other Local Authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The **Cabinet** may delegate executive functions to another local authority or the Executive of 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 Council meeting.
- (d) **The details of any such delegations entered into will be found on the Council's website at the following link: [INSERT LINK]**

### 11.4 Contracting Out

The Council in relation to functions which are not executive functions, and the **Cabinet** in relation to executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making. **The details of any such contracting our arrangements entered into will be found on the Council's website at the following link: [INSERT LINK]**

## Article 12 - Officers

### 12.1 Management Structure

- (a) **General:** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers:** The Council will engage persons for the following three posts, who will be designated chief officers.

POST	FUNCTIONS AND AREAS OF RESPONSIBILITY
<b>Chief Executive</b> (Head of Paid Service)	<ul style="list-style-type: none"><li>• Overall corporate management and operational responsibility (including overall management responsibility for all officers)</li><li>• Provision of professional advice to all parties in the decision-making process</li><li>• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions</li><li>• Representing the Council on partnership and external bodies (as required by statute or the Council)</li><li>• <b>Executive Support</b></li><li>• <b>HR &amp; Policy</b></li><li>• <b>CFO and Financial Services</b></li><li>• <b>Democratic Services &amp; Elections</b></li><li>• <b>Communications</b></li></ul>
<b>Deputy Chief</b>	<ul style="list-style-type: none"><li>• <b>Revenues and Benefits</b></li></ul>

Executive (Monitoring Officer)	<ul style="list-style-type: none"> <li>• Housing and Customer Services</li> <li>• Legal Services Contract</li> <li>• Environmental Services, Licensing and Community Safety</li> <li>• ICT Transformation</li> <li>• Internal Audit &amp; Risk Management</li> </ul>
Director of Place and Climate Change	<ul style="list-style-type: none"> <li>• Planning Policy and Strategy</li> <li>• Planning DM / Building Control Contract</li> <li>• Regeneration and Major Projects / Estates</li> <li>• Neighbourhood / Commercial Services</li> <li>• Response to climate change</li> </ul>

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 officer) Roles:** The Council will designate the following posts as shown:

POST	DESIGNATION
Chief Executive	Head of Paid Service
Finance Manager	Chief Finance Officer (Section 151 Officer)
Deputy Chief Executive	Monitoring Officer

- (d) **Structure:** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.
- (e) **Corporate Management Team:** The senior officer team responsible for the operational management of the Authority is known as the “Corporate Management Team” and comprises the Chief Executive, Deputy Chief Executive and Monitoring Officer, Director – Place and Climate Change, Chief Finance Officer and all Heads of Service.

## 12.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council:** The Head of Paid Service will report to Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Corporate Complaints Officer:** The Head of Paid Service will be responsible for the administration of the Corporate Complaints Procedure and for dealing with complaints made to the Local Government and Social Care Ombudsman.
- (c) **Restrictions on functions:** The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

## 12.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for reference by Members, staff and the public.



- (b) **Ensuring Lawfulness and Fairness of Decision Making:** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council or to the Executive in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Audit and Standards Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee in relation to ethical standards.
- (d) **Code of Conduct Complaints:** The Monitoring Officer will:
- i) adhere to the arrangements put in place by the Council to deal with allegations that a member of the Authority or of a Parish or Town Council within its area has failed to comply with the relevant authority's Code of Conduct.
  - ii) establish and maintain a register of interests of Members and Co-opted Members of the Council and Parish and Town Councils across the district, and to ensure that it is available for public inspection and published on the Council's website.
  - iii) consider all complaints at first instance and decide whether to refer the matter for investigation, to take no action or to seek to resolve the matter through alternative means.
  - iv) receive reports from the Investigating Officer and determine whether to refer the matter to the Audit and Standards Committee for consideration, to take no further action or to seek to resolve the matter through alternative means.
  - v) grant a Member or Co-opted Member of the District Council a dispensation from the restriction on speaking and/or voting when any matter in which that person has a disclosable pecuniary interest is to be considered at a meeting of the Council or any of its committees, sub-committees, joint committees or joint sub-committees.
- (e) **Proper Officer for Access to Information:** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) **Advising whether Executive Decisions are within the Budget and Policy Framework:** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) **Providing Advice:** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (h) **Restrictions on Posts:** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

- (i) To appoint a deputy (where required) who shall undertake the Monitoring Officer's duties where the Monitoring Officer is unable to act owing to absence or illness. [s5, Local Government & Housing Act 1989].

#### 12.4 Functions of the Chief Finance Officer (Section 151 Officer)

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Executive in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. [s.114 Local Government Finance Act, 1988]. Such a report shall have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (b) **Administration of Financial Affairs:** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management:** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice:** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Giving Financial Information:** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Restrictions on Posts.** The Chief Finance Officer cannot be the Monitoring Officer.
- (g) If appropriate, to appoint a deputy who shall undertake the Chief Finance Officer's duties where the Chief Finance Officer is unable to act owing to absence or illness. [s114, Local Government Finance Act 1988].

#### 12.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## 12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

# Article 13 - Decision Making

## 13.1 Responsibility for Decision Making

The Council will issue and keep an up to date record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

## 13.2 Principles of Decision Making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see Article 13.8 below for further details);
- (d) a presumption in favour of openness, **helpfulness and consistency**;
- (e) clarity of aims and desired outcomes; and
- (f) an explanation of the options which were considered and the reasons for the decision will be included as part of the record of any decision.

## 13.3 Types of Decision

- (a) **Decisions Reserved to Council.** Decisions relating to the functions listed in Article 4.2 will be made by the Council and not delegated.
- (b) **Key Decisions:**
  - (i) Any Executive decision which is likely to result in the Local Authority incurring expenditure which is, or the making of savings which are, significant (£100,000) having regard to the Local Authority's budget for the service or function to which the decision relates; or be significant in terms of its effect on communities living or working in an area comprising two or more Wards in the area of the Local Authority shall be treated as a key decision.
  - (ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules as set out in Part 4 of this Constitution.

## 13.4 Decision Making by the Council

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.5 Decision Making by the Executive**

Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.6 Decision Making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.7 Decision Making by other Committees and Sub-Committees established by the Council**

Subject to Article 13.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

### **13.8 Decision Making by Council bodies acting as Tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

### **13.9 Appeals**

Where any appeal arises from a decision delegated to any officer, committee of the Cabinet or any sub-committee, neither that officer, committee or sub-committee nor any member of that committee or sub-committee nor any person previously having had any part in the relevant decision, shall be involved in the appeal.

## **Article 14 - Finance, Contracts and Legal Matters**

### **14.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the Procurement Procedure Rules set out in Part 4 of this Constitution.

### **14.3 Legal Proceedings**

The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

## 14.4 Authentication of Documents

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

Any contract with a value exceeding £100,000 and entered into on behalf of the Local Authority in the course of the discharge of an executive function shall be made in writing and must either be signed or made under the Common Seal of the Council attested in accordance with Article 14.6 below.

## 14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed.

## 14.6 Attestation

The Seal shall be attested by the following persons present at the sealing, viz. the Chair or Vice-Chair of the Council or other Member of the Council, **the Chief Executive, Deputy Chief Executive, Solicitor to the Council or Chief Finance Officer**, and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the Seal.

# Article 15 - Review and Revision of the Constitution

## 15.1 Duty to Monitor and Review the Constitution

The **Audit and Standards Committee** will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

## 15.2 Protocol for the Monitoring and Review of the Constitution

A key role for the **Audit and Standards Committee** is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Members of the Committee may:

- (a) observe meetings;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with the Committee by Members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 15.3 Changes to the Constitution

- (a) **Approval:** Changes to the Constitution, save for delegations to officers, will only be approved by the Council after consideration of the proposal by the **Audit and Standards Committee**.
- (b) **Change from one form of Executive to another:** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.
- (c) **The Chief Executive is authorised, in consultation with the Chair and Leader of the Council and Monitoring Officer, to agree and incorporate into the Constitution:**
  - (i) Factual changes, for example to reflect changes in job titles or the management structure; and
  - (ii) Changes which are required by new legislation which the Council has no choice but to make.

## Article 16 - Suspension, Interpretation and Publication of the Constitution

### 16.1 Suspension of the Constitution

- (a) **Limit to Suspension:** The Articles of this Constitution may not be suspended. The Council Procedure Rules may be suspended to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend:** A motion to suspend any Procedure Rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### 16.2 Interpretation

The ruling of the Chair of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### 16.3 Publication

- (a) The Head of Paid Service shall provide every member of the Council, upon the delivery of the individual's declaration of acceptance of office on the Member first being elected to the Council, with the details of where to view a copy of the Constitution on the Council's website.
- (b) The Chief Executive shall ensure that a copy of the Constitution is available for inspection on the Council's website, at Council offices and other

appropriate locations and may be purchased in hard copy by members of the local media and the public on payment of a reasonable fee.

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## COUNCIL PROCEDURE RULES

### 1. SCOPE

All of the Council Procedure Rules apply to meetings of Council. None of the rules apply to meetings of the Cabinet. Only Rules 5-10, 12.3, 13–15, 16–25 (but not Rules 17.5 (b) and 21.1) apply to meetings of Committees and Sub-Committees. In the case of the Overview and Scrutiny Committees, Rules 15.4 (b) and 15.5 may be waived by the Chair of the Committee at **their** discretion for any agenda item or items.

### 2. ANNUAL MEETING OF THE COUNCIL

#### 2.1 Timing and Business

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

- (i) elect a person to preside if the Chair of Council is not present;
- (ii) elect the Chair of Council, **who will assume office at this point;**
- (iii) appoint the Vice-Chair of Council;
- (iv) approve the minutes of the last meeting;
- (v) **in a year when there is any election of councillors, receive the Returning Officer's Return of councillors elected;**
- (vi) receive any announcements from the Chair and/or Chief Executive;
- (vii) elect the Leader of the Council at the first Annual meeting in a year when there is an ordinary election to serve a term of four years;
- (viii) **receive a statement from the Leader concerning appointments to the Cabinet, including the statutory Deputy Leader;**
- (ix) appoint at least one Overview and Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (x) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xi) receive any declarations of interest from Members;
- (xii) approve the list of outside bodies to which formal appointments are made and make the appointments thereto;
- (xiii) **receive the Leader of the Major Opposition Group's written annual statement, if they wish to give one;** and
- (xiv) consider any business set out in the notice convening the meeting.

#### 2.2 Order of Business

Business falling under items (i) - (ix) of Rule 2.1 shall not be displaced but, subject thereto, the foregoing order of business may be varied:

- (a) by the Chair at **their** discretion, or
- (b) by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

## 2.3 Selection of Councillors on Committees

At the Annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules and to any Councillors not in membership of a political group;
- (iv) receive the nominations of Group Leaders as to the Councillors to serve on each Committee. **In nominating committee Members, conflicts of interests should be avoided wherever possible;**
- (v) appoint to those Committees;
- (vi) appoint substitute Members as per the current scheme; and**
- (vii) at the conclusion of the Annual Council Meeting, convene each Committee to elect the Chairs and Vice-Chairs for the civic year.**

## 3. ORDINARY MEETINGS

### 3.1 Order of Business

Ordinary meetings of the Council will take place in accordance with a programme decided by the Council. Except as otherwise provided by Rule 3.2, the order of business at Ordinary meetings will be to:

- (i) elect a person to preside if the Chair and Vice-Chair are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive the Chair's communications;
- (v) receive questions from, and provide answers to, the public and Members **in accordance with the Council's Public and Member Question Time Scheme;**
- (vi) debate any petitions received under the Council's Petitions Scheme, which have the requisite number of signatures;**
- (vii) deal with any business from the last Council meeting;
- (viii) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (x) consider motions **in accordance with Procedure Rule 13;** and
- (xi) consider any other business specified in the summons to the meeting.

### 3.2 Variation of Order of Business

Business falling under items (i), (ii) or (iii) of Rule 3.1 shall not be displaced but, subject thereto, the foregoing order of business may be varied:

- (a) by the Chair at **their** discretion, or
- (b) by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

## 4. EXTRAORDINARY MEETINGS

### 4.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the Monitoring Officer
- (iv) the Chief Finance Officer (Section 151 Officer); and
- (v) any five Members of the Council if they have signed a requisition presented to the Chair of the Council who has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### 4.2 Business

An extraordinary meeting shall not consider previous minutes, reports from committees or any other matter than the subject for which that meeting is called.

## 5. APPOINTMENT OF SUBSTITUTE MEMBERS ON COMMITTEES

### 5.1 Allocation

- (a) There shall be no substitution of Members of the Audit and Standards Committee, Cabinet or Licensing Panels. Members of the Cabinet may not be substitutes on any Overview and Scrutiny Committee.
- (b) The Chair of Rother District Council may not be a substitute on any Committee.

5.2 The political groups serving on the Council may appoint substitute Members from their own group in accordance with this Procedure Rule on Committees and Sub-Committees. Only substitute Members who have undergone related training may be substituted on the Planning Committee. Political Groups will be permitted to nominate one substitute Member for each relevant Committee on which they have an allocated seat(s).

5.3 In the case of a vacancy on a Committee, the appropriate named Substitute can attend and take the vacant seat until such times as a replacement Substantive Member has been appointed by Full Council or the Chief Executive, under delegation.

### 5.4 Powers and Duties

Substitute Members will have all the powers and duties of any ordinary Member of the committee. Substitute Members may attend meetings in that capacity only:

- a) to take the place of the substantive Member for whom they are the designated substitute;
- b) to take the place of a vacant seat for whom they are the designated substitute for that Group;
- c) where the substantive Member will be absent for the whole of the

- meeting;
- d) has undertaken the mandatory training in the case of the Planning Committee; and
- e) after notifying the Democratic Services Manager no later than one clear working day prior to the commencement of the relevant meeting.

## **5.5 Substitution**

- a) Substantive Members must organise their own substitute arrangements and confirm the attendance of a substitute to the Democratic Services Manager or Officer at least one clear working day prior to the commencement of the meeting (unless there are extenuating circumstances such as a medical emergency or some other family-related emergency); notification by electronic mail or telephone will suffice for these purposes.
- b) The Chair of a relevant meeting will seek confirmation of substitute Members present at the “Apologies and Substitutes” Agenda Item.
- c) Substitutes arriving after the commencement of the meeting and for which prior notification has not been received will not be permitted to act as a substitute.
- d) Where a substantive Member is substituted on a relevant Committee for more than 50% of the scheduled meetings of that Committee in any civic year, Group Leaders will be alerted and consideration given to the removal of the substantive Member.

## **5.6 Variation of Membership**

- a) The appropriate Group Leader must notify the Chief Executive, in writing, of any changes in membership or substitute membership of any Committee or Sub-Committee allocated to their group and such changes will be reported to the next meeting of the Council. Such notification must be provided to the Chief Executive or their nominee prior to the commencement of the body in question to enable it to have effect for that meeting.
- b) The Chief Executive and Monitoring Officer have delegated powers to make appointments, removals or replacement of Members to any Committee and Sub-Committee in accordance with the wishes of the Leader of the political group to which the seat has been allocated.

## **6. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

## **7. NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, or at the time the meeting is convened, if it is convened at shorter notice as a matter of urgency, the Chief Executive will send a summons signed by

them by post or by electronic mail to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **8. CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

## **9. QUORUM**

### **9.1 General**

The quorum of a meeting in the case of the Council will be one quarter of the whole number of Members and in the case of a Committee or Sub-Committee, will be one third of the whole number of the Committee or Sub-Committee but in no case shall the quorum be less than two Council Members.

### **9.2 Quorum during Meetings**

During any meeting, if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

### **9.3 Inquorate Meetings**

If a meeting is inquorate it cannot, by law, proceed to make any decisions. However in certain limited circumstances, the meeting may proceed to deliberate such agenda items as are considered appropriate provided that the minutes of the meeting record the fact that the meeting was inquorate.

This would not be appropriate for a meeting of the Cabinet where the decisions are for Cabinet alone to make, nor would it be appropriate for a regulatory Committee. However, if the matter under consideration was one that would need to be referred to full Council for a decision, then Cabinet could proceed to consider the matter and submit a recommendation to Council, provided Council was advised that the recommendation arose from an inquorate meeting of Cabinet.

This procedure could apply equally to a meeting of a Sub-Committee or Overview and Scrutiny Committee where the actual decision is being taken by the parent Committee, Cabinet or full Council.

This procedure should only be used in the exceptional circumstances set out above and where it is not practical or possible to defer consideration of a matter because of time or other constraints. It is for those Members present at any meeting to determine how they would wish to proceed in the event that a meeting is inquorate.

## 10. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any evening meeting that has lasted for three hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## 11. QUESTIONS BY THE PUBLIC

### 11.1 General

Anyone who works or resides in Rother District may ask questions of Members of the Cabinet at ordinary meetings of the Council. A period of up to 30 minutes at the beginning of each meeting shall be allowed for questions to be put.

### 11.2 Order of Questions

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

### 11.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than five clear working days before the day of the meeting. Each question must give the name and address of the questioner and may specify the Member of the Cabinet either by name or portfolio to whom it is to be put.

### 11.4 Number of Questions

At any meeting no person may submit more than one question and no more than one question may be asked on behalf of an organisation.

### 11.5 Scope of Questions

The Chief Executive may reject a question if it:

- is not about a matter for which the Local Authority has a responsibility or which affects the District; or
- is defamatory, frivolous or offensive; or
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information; or
- relates to an individual/group business or the questioner's own particular circumstances; or
- relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a tribunal or to a Government Minister or an investigation by the Local Government and Social Care Ombudsman or Monitoring Officer; or
- relates to the personal circumstances or conduct of any officer and Councillor or conditions of service of employees; or
- relates to the activities and aims of a political party or organisation; or
- relates to individual planning applications; or
- is a statement and not a genuine enquiry.

The Chair shall have the discretion to limit the length of preamble or other background information supplied with the question. In addition, the Chair may rule that a question shall not be answered because the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.

The ruling of the Chair of the Council as advised by the Chief Executive in the above matters shall be final.

#### **11.6 Record of Questions**

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member of the Cabinet to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated electronically to all Members and made available to the public attending the meeting as well as published on the Council's website in advance of the meeting when possible.

The minutes of the meeting will record the details of the questions that have been asked (including any supplementary questions) and by whom, together with the answers given.

#### **11.7 Asking the Question at the Meeting**

Although questioners will be required to identify themselves at the meeting, they do not need to ask their questions themselves, unless they wish to. A questioner who has submitted a written question may ask the Chair to put the question on their behalf. The Chair will, in appropriate cases read the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **11.8 Supplementary Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member of the Cabinet who has replied to their original question. A supplementary question must relate to the answer given. The Chair may reject a supplementary question on any of the grounds in Rule 11.5 above.

#### **11.9 Written Answers**

Any question which cannot be dealt with during public question time due to lack of time will be dealt with by a written answer, which will be sent to the questioner and all Members of the Council within 10 working days of the meeting.

#### **11.10 Reference of Question to the Cabinet or a Committee**

Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

## 12. QUESTIONS BY MEMBERS

### 12.1 On Reports of the **Cabinet** or a Committee

A Member of the Council may ask the Leader, Member of the Cabinet or the Chair of a Committee any question without notice upon an item of the report of the **Cabinet** or a Committee when that item is being received or is under consideration by the Council.

### 12.2 Questions on Notice at Council

A period of up to 30 minutes following any questions submitted by Members of the public under Rule 11 above shall be allowed for questions to be put by Members of the Council.

A Member of the Council may ask:

- the Leader;
- a Member of the **Cabinet**; or
- the Chair of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the District provided that either:

- (a) they have given notice to the Chief Executive by 12 noon on the day of the meeting of the wish to ask an oral question together with details as to whom it is to be directed; or
- (b) they have given at least two clear working days' notice, not including the day of the meeting or the day on which the notification was received, of the wish to submit a written question and to receive a written answer.

The ruling of the Chair as advised by the Chief Executive and having regard to Rule 11.5 as to the appropriateness of a question shall be final.

A written question submitted by a Member who is then unable to attend Council will still be put, circulated together with the answer and included within the minutes.

### 12.3 Questions on Notice at Committees and Sub-Committees

A Member of a Committee or Sub-Committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the District and which falls within the terms of reference of that Committee or Sub-Committee. A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than five clear working days before the day of the meeting.

### 12.4 Response

An answer may take the form of:

- (a) a direct oral answer; or
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or



- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner **and included as an appendix to the minutes.**

## 12.5 **Supplementary Question**

A Member asking a question under Rule 12.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must relate to **the original question or answer** given.

The minutes of the meeting will record the details of any question asked by a Member under 12.2, together with the answer given, and the essence of any supplementary question and any reply given.

## 13. **NOTICE OF MOTIONS**

### 13.1 **Notice**

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by a Member of the Council giving the notice, must be delivered to the Chief Executive no later than 10 clear days before the date of the meeting.

**E-signatures shall be acceptable for the purposes of this rule. Save that the Chair shall have the discretion to admit a motion to the Agenda by reason of special circumstances on the grounds of urgency, in accordance with the provisions of Part VA of the Local Government Act 1972, where they are satisfied that the matter will not admit of delay until the next meeting of Council.**

**A record of notices of motion shall be kept.**

**Only one Motion may be submitted per Member per meeting.**

### 13.2 **Number of Motions**

**A maximum of five motions shall be accepted for debate at an ordinary meeting of the Council under this procedure rule. Motions will be accepted in the order in which notice of the full written motion is received.**

### 13.3. **Similar Motions**

**Where similar motions have been submitted, the Chief Executive will liaise with the Chair and is authorised to ask the proposers to work together to agree a mutually agreeable form of words. Where that does not prove possible, the Chair shall decide which motion shall be accepted.**

### 13.4 **Motion Set Out in the Agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it. **Subject to a written proposal by the Councillor to move it at a later meeting, any motion not moved at the relevant meeting shall be deemed to be withdrawn.**

### 13.5 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District.

The Chair, having regard to the advice of the Chief Executive may reject a motion if it:

- (a) is not about a matter for which the local authority has a responsibility, or which affects the district;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a motion which has been put at the meeting or a meeting of the Council in the past six months. (This does not apply to motions moved in pursuance of a recommendation of Cabinet, a Committee or a Chief Officer or motions which have been withdrawn from a previous meeting);
- (d) requires the disclosure of confidential or exempt information;
- (e) would, if carried, commit the Council to a course or courses of action contrary to agreed processes or outside its authority to act; or
- (f) relates to a planning or licensing application which has yet to be determined.

### 13.6 Time limit

A maximum period of thirty minutes shall be allowed for each motion to be moved, seconded and debated, including dealing with any amendments. At the expiry of the thirty-minute period, debate shall cease immediately, the mover of the original motion shall have the right of reply before the motion or amendment is put to the vote. If the original motion has been amended, the mover of the amendment now forming the substantive motion shall have the right of reply before it is put to the vote.

## 14. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to defer consideration of an item of business;
- (g) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (h) to withdraw a motion;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting (evenings only) continue beyond three hours in duration;
- (o) to suspend a particular Council Procedure Rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;

- (q) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

## 15. RULES OF DEBATE

### 15.1 No Speeches until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### 15.2 Right to require Motion in Writing

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

### 15.3 Secunder's Speech

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

### 15.4 Content and Length of Speeches

- (a) Speeches must be directed to the question under discussion or to a personal explanation, point of order **or point of information**.
- (b) Except by consent of the Council no speech shall exceed five minutes in the case of the mover of a motion or amendment and three minutes in all other cases including seconds.

### 15.5 When a Member may speak again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member; or
- (b) to move a further amendment if the motion has been amended since **they** last spoke; or
- (c) if **their** first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which **they** spoke was carried); or
- (d) **at the Chair's discretion, in the case of the Leader, Cabinet member or committee chair, to respond to a factual question directly addressed to them; or**
- (e) in exercise of a right of reply; or
- (f) on a point of order; or
- (g) **at the Chair's discretion, to make a point of information;**
- (h) by way of personal explanation; or
- (i) **to move a Motion under Procedure Rule 15.10 (Motions which may be moved during debate).**

## 15.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration; or
  - (ii) to leave out words; or
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) The Chair may request the mover and seconder of the original motion to indicate whether they are prepared to accept the amendment through its incorporation into their motion. If they are willing to do so, the original motion shall stand altered accordingly, the amendment shall be deemed withdrawn and debate proceed on the original motion, as altered. If they are not willing to do so, consideration of the amendment shall proceed in accordance with the normal rules of debate.
- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 15.7 Alteration of Motion

- (a) A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

## 15.8 Withdrawal of Motion

A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

## 15.9 Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

- (c) The mover of the amendment has no right of reply to the debate on **their** amendment.

#### 15.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting (evenings only) continue beyond three hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### 15.11 Closure Motions

- (a) A Member may, provided that they have not already spoken, move without comment at the end of a speech of another Member the following motions:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote. **The Chair may reject the procedural motion if they think that the matter before the meeting has not been sufficiently discussed.**
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote. **The Chair may reject the procedural motion if they think that the matter before the meeting has not been sufficiently discussed.**
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 15.12 Point of Order

A Member may raise a point of order at any time. The Chair will hear the Member immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way

in which they consider it has been broken. The ruling of the Chair on the matter will be final.

### **15.13 Point of information**

A point of information may only be made where a Member is aware that the Council has incorrect information before it on a material point. A Member may ask to raise a point of information at any time by standing and stating, "Point of Information", but shall be permitted to speak only at the Chair's discretion. The Member who raises the point of information must be able to cite evidence to support their statement. The point of information may be raised whilst another Member is speaking but only if that Member is willing to give way. The ruling of the Chair on the admissibility of a point of information shall be final.

### **15.14 Personal Explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## **16. PREVIOUS DECISIONS AND MOTIONS**

### **16.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind or reverse, or which has the effect of rescinding or reversing a decision of the Council made within the preceding six months cannot be moved unless the notice of motion is signed by at least one third of Members or unless it is a recommendation of a Committee or the Cabinet which appears on the agenda.

### **16.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the preceding six months cannot be moved unless the notice of motion or amendment is signed by at least one third of Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **17. VOTING**

### **17.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

### **17.2 Chair's Casting Vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

### **17.3 Show of Hands**

Unless a secret ballot is required under Rule 17.4 or a recorded vote is demanded under 17.5, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **17.4 Voting on Member Appointments**

- (a) Where more than one person is nominated for any appointment made by the Council, voting shall be by secret ballot.
- (b) Where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

### **17.5 Recorded Vote**

- (a) Except as provided for in Rule 17.4, if four Members present at the meeting demand it, the names for and against the motion or amendment and those abstaining from voting will be taken down in writing and entered in the minutes.
- (b) In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be mandatory when setting the Council's Budget each year. This mandatory provision applies to not only the substantive motion, but any amendments made thereto.

### **17.6 Right to require Individual Vote to be Recorded**

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

## **18. MINUTES**

### **18.1 Signing the Minutes**

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

### **18.2 No requirement to sign Minutes of previous Meeting at Extraordinary Meeting**

There shall be no requirement to sign the minutes of a previous ordinary meeting at an extraordinary meeting of the Council convened under Rule 4 above. Any unsigned minutes of previous ordinary meetings and the minutes of the extraordinary meeting shall be signed at the next ordinary meeting.

## 19. RECORD OF ATTENDANCE

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

## 20. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

## 21. MEMBERS' CONDUCT

### 21.1 Standing to Speak

When a Member speaks at full Council they must stand if able to do so and address the meeting through the Chair. If more than one Member stands, the Chair shall ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a personal explanation or a point of information.

### 21.2 Chair Standing

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

### 21.3 Member not to be heard further

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

### 21.4 Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chair may either move that the Member leaves the meeting (in which case the motion shall be put and determined without seconding or discussion) or adjourn the meeting for such period as they, in their discretion, shall consider expedient.

### 21.5 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary. An adjournment in these circumstances shall not require a motion to be passed.

### 21.6 Smoking

In accordance with the Council's Smoking Policy and national legislation, smoking is not allowed at any time in any part of the Council's buildings and offices by Members, officers or visitors.



## **22. DISTURBANCE BY PUBLIC**

### **22.1 Removal of Member of the Public**

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

### **22.2 Clearance of part of Meeting Room**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

### **22.3 Banners, placards, etc**

No member of the public shall be allowed to bring into or display at any Council meeting any banner, placard, poster or other similar item. The Chair may require any such items to be removed.

## **23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **23.1 Suspension**

All of these Council Procedure Rules except Rule 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting.

### **23.2 Amendment**

Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council if not coming forward as part of a recommendation of a Committee.

## **24. RECORDING, FILMING, BROADCASTING AND REPORTING OF COUNCIL AND COMMITTEE MEETINGS**

### **24.1 Public Rights**

- (a) With the knowledge of all persons present at a meeting, the public have the right to record, film, broadcast and report meetings of the Council that are open to the public, which includes the use of digital and social media recording tools such as Twitter, blogging etc.
- (b) Members of the public are recommended to give prior notice to film or audio record meetings so that necessary arrangements can be made to reduce disruption and possible prohibition at the commencement of the meeting.
- (c) The Chair of the meeting will have absolute discretion to terminate or suspend any activity if, in their opinion, continuing to do so would prejudice proceedings at the meeting or cause disruption to officers, Councillors or other members of the public present.
- (d) While those attending Council and Committee meetings are deemed to have consented to the filming, recording or broadcasting of meetings, those exercising the rights to film, record and broadcast must respect the rights of other people attending under the Data Protection Act 1998.

- (e) Any person or organisation choosing to film, record or broadcast any meeting of the Council is responsible for any claims or other liability from them so doing.

## 24.2 Council

Where technology facilities allow, the Council will **live-stream**, audio record and/or video all formal Council meetings held in the Council Chamber. All recordings / video footage will be made available on the Council's website **as soon as possible and** within one week of each meeting. The recording and/or video of an item of business (or part of an item of business) which is considered in private in accordance with the Access to Information Rules contained within Part 4-2 of this Constitution will not be made publicly available.

## 25. CANCELLATION OF MEETINGS

25.1 The Chief Executive is authorised to cancel a meeting, giving reasons, before the agenda has been published, following consultation with the Chair.

25.2 Where, in exceptional circumstances, such as severe weather or other disruptive circumstances, it is necessary to cancel a meeting after the agenda has been published, the Chief Executive shall be authorised to do so, following consultation with the Chair. The notice advising of the cancellation shall specify the exceptional circumstances in which the decision was taken. Outstanding business shall be held over to the next scheduled meeting or considered at a reconvened meeting on a date to be arranged which satisfies the notice requirements set out in the Local Government Act 1972 and Access to Information Rule 4.

## 26. INTERPRETATION OF COUNCIL OR OTHER PROCEDURE RULES

The ruling of the Chair as to the construction or application of the Council or other Procedure Rules, or as to any proceedings of the Council or a Committee shall not be challenged at any meeting of the Council or of a Committee.

## ACCESS TO INFORMATION RULES

### 1. SCOPE

These rules shall apply to all **formal** meetings of the Council, the Overview and Scrutiny Committee(s), the Audit and Standards Committee, Regulatory Committees and all meetings of the **Cabinet** (together called meetings) unless Rule 14 (general exception) or Rule 15 (special urgency) apply or unless provided otherwise by law. **Informal meetings i.e. Steering Groups / Working Groups / Task and Finish Groups will determine to what extent the public shall have access to their meetings.**

### 2. ADDITIONAL RIGHTS TO INFORMATION

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

### 3. RIGHTS TO ATTEND MEETINGS

- (a) Members of the public may attend all meetings subject only to the exceptions in these rules and subject also to the constraints of the buildings where the meetings are held having regard to matters of health and safety.
- (b) Save as specified in Rule 3 (c) below, Members of the Council may attend all meetings both when the meetings are open to the public and also when confidential or exempt information is to be discussed.
- (c) In the case of Taxi and Private Hire Licensing Panels Members cannot attend any confidential part of the meeting to speak unless invited by an applicant. In the case of General Licensing Panels no Member can address a Licensing Panel unless the Member has been invited by a representor to the application or the Member has made a relevant representation themselves. There is no automatic right to attend and speak at a Licensing Panel as the local Ward Member.

### 4. NOTICE OF MEETING

The Council will give at least five clear days' notice, or at the time the meeting is convened, if it is convened at shorter notice as a matter of urgency, of any meeting by posting details of the meeting at **all offices of the Council** and on the Council's website ([www.rother.gov.uk](http://www.rother.gov.uk)).

### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated offices referred to in Rule 4 above, at least five clear days before the meeting or at the time the meeting is convened, if it is convened at shorter notice as a matter of urgency. If 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 as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

## **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Paid Service thinks fit, any other documents supplied to Councillors in connection with an item.

to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings, 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.

## **8. BACKGROUND PAPERS**

### **8.1 List of Background Papers**

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 10 below).

### **8.2 Public Inspection of Background Papers**

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

## **9. SUMMARY OF PUBLIC'S RIGHTS**

These Access to Information Procedure Rules are the Council's written summary of the public's rights to attend meetings and to inspect and copy documents. They are available for public inspection, together with the whole Constitution, at all Council offices and on the Council's website, [www.rother.gov.uk/constitution](http://www.rother.gov.uk/constitution).

## 10. EXCLUSION OF ACCESS OF THE PUBLIC TO MEETINGS

### 10.1 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.

### 10.2 Exempt Information – discretion to exclude public

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 10.3 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 by Court Order.

### 10.4 Meaning of Exempt Information

Exempt information means information falling within the following categories (subject to any relevant conditions) and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:-

Para. No.	Category	Condition
1.	Information relating to any individual	None specified
2.	Information which is likely to reveal the identity of an individual	None specified

3.	Information relating to the financial or business affairs of any particular person(including the authority holding that information)	<p>Information is not exempt information if it is required to be registered under:</p> <p>3.1 the Companies Act 1985</p> <p>3.2 the Friendly Societies Act 1974</p> <p>3.3 the Friendly Societies Act 1992</p> <p>3.4 the Industrial and Provident Societies Acts 1965 to 1978</p> <p>3.5 the Building Societies Act 1986</p> <p>3.6 the Charities Act 1993</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.	None specified
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	None specified
6.	<p>Information which reveals that the authority proposes:</p> <p>6.1 to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>6.2 to make an order or direction under any enactment.</p>	None specified

7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	None specified
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## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Head of Paid Service thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely 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.

## 12. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:

- (a) a document (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 28 clear (consecutive) 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, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## 13. THE FORWARD PLAN

### 13.1 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. The Forward Plan will be made available for inspection by the public at the Council offices and on the Council’s website.

### 13.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a key decision (as well as non-key decisions) to be taken by the Cabinet, officers, area Committees or under joint arrangements in the course of the discharge of an Executive 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, their name and title, if any and where the decision maker is a body, its name and a list of its members;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) 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;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

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

#### 14. **KEY DECISIONS - 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 15 (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;
- (b) the Head of Paid Service has informed the Chair of the relevant Overview and Scrutiny Committee, 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;
- (c) the Head of Paid Service has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Head of Paid Service complied with (b) and (c).

As soon as reasonably practicable after the Head of Paid Service has complied with the above, they must make available at the offices of the relevant local authority a notice setting out the reasons why compliance with the publicity requirements are impractical and publish the notice on the Council's website.

#### 15. **KEY-DECISIONS - SPECIAL URGENCY**

If by virtue of the date by which a key decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body which is to make the decision, obtains the agreement of the Chair of the relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the relevant Overview and Scrutiny Committee, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair will suffice.

As soon as reasonably practicable after the Head of Paid Service has complied with the above, they must make available at the offices of the relevant local authority a notice setting out the reasons why compliance with the publicity requirements are impractical and publish the notice on the Council's website.

#### 16. **REPORT TO COUNCIL**

##### 16.1 **When the Overview and Scrutiny Committees can require a report**

If an Overview and Scrutiny Committee 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 the relevant Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council under Rule 15;



the Committee may, by resolution passed at a meeting, 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 Head of Paid Service, who shall by notice require such a report on behalf of the Committee when so requested by the Chair or any five Members.

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

The **Cabinet** will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven clear 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, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## 16.3 **Quarterly Reports on Special Urgency Decisions**

The Leader will submit quarterly reports to the Council if any Executive decisions have been taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 17. **RECORD OF DECISIONS**

After any public meeting of the **Cabinet**, whether **held in public or private**, the Head of Paid Service or their nominee 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. The record will also include any conflicts of interest relating to the matter(s) decided declared by any Member of the **Cabinet** and a note of any dispensation granted by the Head of Paid Service in respect thereof.

## 18. **ATTENDANCE AT MEETINGS OF THE CABINET**

- (a) Notice of public meetings of the **Cabinet**, whether **to be held in public or private**, will be served on all Members of the Council at the same time as notice is served on Members of the **Cabinet**.
- (b) Public meetings of the **Cabinet** may only take place in the presence of the Head of Paid Service, or the Chief Finance Officer, or the Monitoring Officer or their nominee with responsibility for recording and publicising the decisions.

## 19. **KEY DECISIONS BY OFFICERS**

### 19.1 **Record of Individual Decision**

As soon as reasonably practicable after a key decision has been taken by an officer, they will prepare, or instruct the Head of Paid Service to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The record will also include any conflicts of interest declared by any Member of the **Cabinet** consulted by the officer and which relates to the decision and a note of any dispensation granted by the Head of Paid Service in respect thereof.

## 20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

### 20.1 Rights to Copies

The 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 relating to any business transacted at a public meeting of the **Cabinet**, whether or not it is one to which paragraph 10 applies.

## 21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

### 21.1 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** and which contains material relating to any business previously transacted unless it contains exempt information falling within paragraphs 1-2, 4-5 and 7 of the categories of exempt information set out at 10 above.

### 21.2 Material relating to Key Decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the **Cabinet** which relates to any key decision unless it contains information falling within the paragraphs as stated in Rule 21.1 above.

### 21.3 Nature of Rights

These rights of a Member are additional to any other right that they may have.

### 21.4 Access to information generally and privileged legal advice

21.4.1 The Head of Paid Service will consider Member access requests to privileged legal advice (legal advice sought by the authority) on a case by case basis, in consultation with the Council's Solicitor to the Council.

21.4.2 Subject to the above, a Member generally has a right to access to all information and material in the possession of the Council (with the exception of privileged legal advice) which relates to the business of any committee on which the Member serves; they have a right to information pertaining to a committee of which they are not a member, providing they can establish that such access is necessary for the proper discharge of their duties as a Member, but in such a case they have no automatic right of access and any request for information or material should be carefully screened.

## 22. PROCEDURE PRIOR TO PRIVATE MEETINGS OF THE CABINET

22.1 At least 28 clear (consecutive) days before notice is given of a private meeting, the Head of Paid Service must make available, at the Council offices, a notice of the intention to hold a meeting (**or part thereof**) in private and publish it on the Council's website. The notice must include a statement of the reasons for the meeting to be held in private.

22.2 A private meeting of the Cabinet will only be held to consider legitimate business that is confidential or exempt in accordance with the descriptions in

Schedule 12A to the 1972 Local Government Act (Access to Information: exempt information), as amended and detailed at Paragraph 10.4 above.

- 22.3 If any representations are made during the 28 day notice period, the Head of Paid Service will consider the representations, in consultation with the Leader of the Council and determine whether or not the meeting, or part thereof, will be held in private.
- 22.4 At least five clear days before the private meeting, the Head of Paid Service must make available at the Council offices a further notice of the intention to hold the meeting, or part thereof, in private and publish it on the Council's website. The publication of the formal Agenda for the meeting will constitute this notice.
- 22.5 The notice must include a statement of the reasons for the meeting to be held in private, details of any representations received by the Head of Paid Service about why the meeting should be open to the public and a statement of the response to any such representations.

23. **EXCLUSION OF ACCESS OF THE PUBLIC TO URGENT PRIVATE EXECUTIVE MEETINGS**

Where the date by which a private meeting, or part thereof, must be held makes compliance with the 28 day notice period impracticable, the meeting may only be held in private where the Head of Paid Service has obtained agreement from:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, the Chair of the Council; or
- (c) where there is no Chair of the Overview and Scrutiny Committee or of the Council, the Vice-Chair of the Council, that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Head of Paid Service has obtained agreement to hold an urgent private meeting, a notice must be made available at the Council offices setting out the reasons why the meeting is urgent and cannot reasonably be deferred and published on the Council's website.

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**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. 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**

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

- (a) Not less than four months before a plan/strategy/budget needs to be adopted, the Cabinet will publish initial proposals for the budget and policy framework, having as necessary first canvassed the views of appropriate local stakeholders in a manner suitable to the matter under consideration. Any representations made to the Cabinet shall be taken into account in formulating the initial proposals and shall be reflected in any report dealing with them. If the matter is one where the Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- (b) The Cabinet's initial proposals shall be referred to the Overview and Scrutiny Committee for further advice and consideration. The Overview and Scrutiny Committee shall canvass the views of local stakeholders, if it considers it appropriate, in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Cabinet. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The Overview and Scrutiny Committee shall have 4 weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.
- (c) Having considered the report of the Overview and Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.
- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinets' proposals and any report from the Overview and Scrutiny Committee.
- (e) The Council's decision will be published and a copy given to the Leader. The decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals

are not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication, unless the Leader objects to it in that period.

- (f) If the Leader objects to the decision of the Council, **they** shall give written notice to the Head of Paid Service to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Head of Paid Service shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 20 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall, at that meeting, make its final decision on the matter on the basis of a simple majority. The decision shall be published and implemented immediately.

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

- (a) Subject to the provisions of paragraph 5 (virement) the **Cabinet** and any officers, area Committees or joint arrangements discharging Executive 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 Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- (b) If the **Cabinet** and any officers, area committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from 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 or policy framework) shall apply.

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

- (a) The **Cabinet** and any officers, area committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by 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 Council;  
and

- ii) if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Council and the Chair of the Overview and Scrutiny Committee's 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 Chair of the Overview and Scrutiny Committee the consent of the Chair of the Council or in his/her absence, the Vice-Chair, will be sufficient.

- (b) Following the decision, the decision taker will provide a 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.

## 5. VIREMENT

- (a) Virement is permitted between the revenue budget heads that reflect the Council's current approved structure, subject to financial considerations to be determined by the Chief Finance Officer in consultation with either the Chief Executive, Deputy Chief Executive or Director – Place and Climate Change.
- (b) Any virement between budget heads shall only be carried out in accordance with the requirements of the Council's Financial Procedure Rules and, where appropriate, Procurement Procedure Rules.
- (c) Rollover of unspent budgets from the previous financial year to the current financial year shall not be permitted. Additional one-off budget provisions must be planned and agreed with the Chief Finance Officer as part of the annual budgeting cycle.
- (d) Where the Council receives ring-fenced grant funding Heads of Service may, with the agreement of the Chief Finance Officer, carry forward unspent balances into the current financial year.
- (e) Virement is not permitted between revenue and capital budgets.

## 6. POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet and any officers, area committees or joint arrangements discharging Executive functions must be in line with it.

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

- (a) Where the Overview and Scrutiny Committee is of the opinion that a 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.
- (b) In respect of functions that are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall

be sent to the **Cabinet** with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the **Cabinet** must meet to decide what action to take in respect of the Monitoring Officer's and/or the Chief Financial Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Overview and Scrutiny Committee, if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- (c) 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 Committee 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. 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** decision taker 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 Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save 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 and/or Chief Finance Officer.



## EXECUTIVE PROCEDURE RULES

### HOW THE **CABINET** OPERATES

#### 1. WHO MAY MAKE EXECUTIVE DECISIONS?

1.1 Arrangements provide for executive functions to be discharged by:

- (a) the **Cabinet** as a whole;
- (b) **a committee of the Cabinet (which may only comprise Cabinet members);**
- (c) an officer;
- (d) an area committee;
- (e) joint arrangements; or
- (f) another local authority.

1.2 **Where Executive functions have been delegated under (b)-(e) above, this does not prevent the discharge of such delegated functions by the Cabinet.**

#### 2. THE COUNCIL'S SCHEME OF DELEGATION AND EXECUTIVE FUNCTIONS

2.1 The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3, **Functions of Responsibility**, of this Constitution.

#### 3. CONFLICTS OF INTEREST

3.1 Where **any member of the Cabinet** has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct in Part 5 of this Constitution.

3.2 If the exercise of an Executive function has been delegated to an officer, and should a conflict of interest arise, then the **officer shall be expected to refer the decision to the Chief Executive or Cabinet.**

#### 4. **CABINET MEETINGS – WHEN AND WHERE?**

4.1 The **Cabinet** will usually meet at least 12 times per year, subject to business, at times to be agreed by the Leader. The **Cabinet** shall meet at the Town Hall, Bexhill or such other location as agreed by the Leader.

#### 5. QUORUM

5.1 The quorum for a meeting of the **Cabinet** shall be four Members of the Executive **(to include the Leader or the Deputy Leader).**

#### 6. HOW DECISIONS **ARE TO BE TAKEN BY THE CABINET**

6.1 Executive decisions which have been delegated to the **Cabinet** as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution. All public meetings of the **Cabinet** will be conducted in accordance with those Rules and the principles of decision-making set out in Article 13.

6.2 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 7. HOW CABINET MEETINGS ARE CONDUCTED

### 7.1 WHO PRESIDES?

If the Leader is present they will preside. In his/her absence the Deputy Leader shall preside. The Leader or Deputy Leader presiding shall, in the event of a voting tie, have a second or casting vote.

## 8. WHO MAY ATTEND?

8.1 These details are set out in the Access to Information Rules in Part 4 of this Constitution and include any member of the public or press (other than when confidential or exempt information is to be discussed) and all Members of the Council.

## 9. WHAT BUSINESS?

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

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) consideration of reports from the Overview and Scrutiny Committee; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## 10. CONSULTATION

10.2 All reports to the Cabinet from an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, 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. WHO CAN PUT ITEMS ON THE EXECUTIVE AGENDA?

11.1 The Leader will decide upon the schedule for the meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter which they wishes, whether or not authority has been delegated to the Cabinet or an officer in respect of that matter. The Head of Paid Service will comply with the Leader's requests in this respect.

- (a) Any Member of the Executive may require the Head of Paid Service to place an item on the agenda of the next available meeting of the Cabinet for consideration.

- (b) The Head of Paid Service will place an item on the agenda of the next available meeting of the **Cabinet** where the Overview and Scrutiny Committee or the Council have resolved that an item be considered by the **Cabinet**.
- (c) Any Member of the Council may ask the Leader to put an item on the agenda of a **Cabinet** meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the **Cabinet**. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.
- (d) The Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of a **Cabinet**.

## 12. WHO MAY SPEAK?

12.1 With the agreement of the Leader the following may speak at Executive meetings:

- (a) any Member of the Council (who is not a member of the Executive) for the purpose of speaking to an item, the inclusion of which the Member has requested and the Leader has agreed in accordance with Rule 12 (c) above;
- (b) any Member of the Council (who is not a Member of the Executive) present at a meeting may address the Executive on any matter on the Agenda; and
- (c) the Chairman of any Overview and Scrutiny Committee for the purpose of presenting a report of the Scrutiny Committee to the Executive.

## 13. STEERING GROUPS

- (a) The Cabinet may establish steering groups to inform its decisions and assist it in the discharge of its functions, whether by the Cabinet as a whole or by a committee of the Cabinet. It may do so upon its own initiative or upon the recommendation of the Overview and Scrutiny Committee or any councillor or councillors. The Cabinet shall appoint the members of each Steering Group (which may include non-Cabinet members and co-opted non-members of the Council, where appropriate) and shall determine the terms of reference and working term of each group. Steering groups shall, wherever practicable, comprise representatives of more than one political group.
- (b) All members of the Council may attend and (with the agreement of the Chair) speak at steering group meetings. The Chair may invite any other person or body to attend a meeting of a steering group to inform discussion on any matter within its terms of reference.
- (c) A steering group may meet in any location jointly with any other committee or advisory group of the Council or with any joint committee or any other group or body of any other local authority to discuss any matter within its terms of reference.

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## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. NUMBER OF OVERVIEW AND SCRUTINY COMMITTEES

- (a) The Council will have one **or more** Overview and Scrutiny Committees, which will perform all overview and scrutiny functions on behalf of the Council.
- (b) The terms of reference of the Overview and Scrutiny Committee will be as set out at Article 6 of the Constitution.
- (c) In addition the Overview and Scrutiny Committee will:
  - i) approve an annual overview and scrutiny work programme, including the programme of any formal sub-committees and informal task and finish working groups it appoints so as to ensure that the Committee and sub-committees' / working groups' time is effectively and efficiently utilised;
  - ii) put in place a system to ensure that referrals from overview and scrutiny to the **Cabinet**, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;
  - iii) in the event of reports to the **Cabinet** exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of **Cabinet** business or jeopardises the efficient running of Council business, at the request of the **Cabinet**, make decisions about the priority of referrals made; and
  - iv) receive requests from the **Cabinet** and/or the Council for reports.
- (d) the Overview and Scrutiny Committee may appoint such formal sub-committees and informal task and finish groups as it considers to be necessary from time to time and for so long as considered necessary, subject to there being no more than four active sub-committees / groups at any one time and the same service officers not being involved in more than one active group at any one time. The Committee may also amend the terms of reference of any sub-committees / group it has appointed as appropriate.
- (e) Task and finish groups are not formally constituted sub-committees and therefore do not have to comply with the need to give public notice under the Access to Information rules.

### 2. MEMBERSHIP OF OVERVIEW AND SCRUTINY

All Councillors, except Members of the **Cabinet**, may be Members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which **they** have been directly involved.

### 3. MEMBERSHIP OF SUB-COMMITTEES / TASK AND FINISH GROUPS

- (a) All Councillors, except Members of the **Cabinet**, may be appointed as a Member of a sub-committee / task and finish group – Membership does not have to be drawn from the make-up of the Overview and Scrutiny Committee. Membership is also open to non-members of the Council, and in particular, participation by youth and ethnic minority representatives should be encouraged. The exact external representation and political make up will be

determined by the parent Committee when establishing the sub-committee / task and finish group.

- (b) Councillor membership of any sub-committee / task and finish group can be changed by the respective Group Leader without the need for reference back to the parent Overview and Scrutiny Committee, as and when the need arises.
- (c) Group Leaders are also able to appoint substitute members (from the same political group) when substantive members are unable to attend task and finish group meetings on an ad-hoc basis.

#### 4. **MEETINGS OF OVERVIEW AND SCRUTINY COMMITTEE(S)**

Meetings of an overview and scrutiny committee shall be held on such dates and times as may be specified in the Council's calendar of meetings. However, such dates may be varied at the discretion of the Chair of the committee. In addition, extraordinary meetings may be called from time to time as and when appropriate by the Chair of the Committee or on the requisition of not less than three Members of the Committee, delivered in writing to the Head of Paid Service. The summons to the extraordinary meeting shall set out the business to be considered thereat and no business other than that set therein shall be considered at that meeting.

#### 5. **QUORUM**

The quorum for an Overview and Scrutiny Committee and any sub-committees shall be one third of its membership but in no case shall the quorum be less than two Council Members.

#### 6. **CHAIR**

The Chair of the Overview and Scrutiny Committee will be drawn from the opposition Councillors sitting on the Committee, and subject to this requirement the Committee may appoint such a person as it considers appropriate as Chair.

The Chair of any sub-committees / task and finish groups will be drawn from among the Councillors sitting on the sub-committee / task and finish group, and subject to this requirement may appoint such a person as it considers appropriate as Chair.

The Chair of the Overview and Scrutiny Committee may not be assigned as a Project Sponsor for any major capital project nor act as Chair of any formal sub-committee or informal task and finish group in connection therewith.

#### 7. **WORK PROGRAMME**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of the Cabinet, the Corporate Management Team, external stakeholders and the interests of residents. Particular regard shall be given to Members on the Committee who are not Members of the controlling political group on the Council. The Committee will adjust its Work Programme to accommodate any changes in priorities and circumstances which may emerge during the year.

Except for years in which ordinary elections take place, an informal annual Scrutiny Work Programming meeting will take place, after the Annual Council meeting but prior to the first scheduled meeting of the Scrutiny Committee. This allows the Committee to consider its priorities and work programme for the year in consultation with the **Corporate Management Team** in an informal meeting which is not open to the public. In an election year, this consultation will form part of the Members' Induction Day.

## 8. **AGENDA ITEMS**

- (a) Any **Member of the Council** shall be entitled to give notice to the Head of Paid Service that **they** wish an item relevant to the functions of the Overview and Scrutiny 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, which shall indicate whether or not the matter has been raised as a Councillor Call for Action (CCfA) in accordance with the provisions of Section 119 of the Local Government and Public Involvement in Health Act 2007, the Head of Paid Service will include it on the next available agenda. **The CCfA provides Councillors with a mechanism to formerly request a relevant overview and scrutiny committee to consider an issue in their ward, if all other options to resolve it have failed.**
- (b) The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the **Cabinet** to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the **Cabinet** and/or Council. The Council and/or the **Cabinet** shall consider the report of the Overview and Scrutiny Committee within six weeks of receiving it.

## 9. **SPEAKING RIGHTS AT MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE / SUB-COMMITTEES / TASK AND FINISH GROUPS**

- (a) Any Member of the Council (who is not a **substantive** Member of **any of the above**) may speak at **such** meetings on an issue which alone affects the Ward which the Member represents on the Council.
- (b) **Any Member of the Cabinet who has been invited to address the Overview and Scrutiny Committee may only speak on an item of relevance to their Cabinet Portfolio.**
- (c) Any other Member of the Council (who is not a **substantive** Member of **any of the above**) may speak at **such by** invitation of the Chairman of the Committee. **Any such request should not be unreasonably refused by the Chair, provided that the Member does not seek to unduly influence or dominate the discussion on the issue.**
- (d) Any other non-members of the Council appointed to any sub-committee / task and finish groups **may speak.**
- (e) Any member of the public, stakeholders, staff side and Members and officers in other parts of the public sector invited to address the Overview and Scrutiny Committee / sub-committees / task and finish group **may speak**, but not engage with debate or decision making, as provided for at Rule 15 below.

## 10. POLICY REVIEW AND DEVELOPMENT

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (See Part 4.3 of this Constitution).
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its functions (See Part 3 of this Constitution).
- (c) The Overview and Scrutiny Committee 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. It may go on approved site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. It may ask witnesses to attend to address the Committee on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so. All such actions shall be subject to the costs being met from within the approved revenue budget or any budget that may be specifically provided by the Council for the Committee.

## 11. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEE

- (a) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Head of Paid Service for decision by the Cabinet (if the proposals are consistent with the existing budget and policy framework), or via Cabinet for decision by the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall normally consider the report of the Overview and Scrutiny Committee within six weeks of it being submitted to the Head of Paid Service.

## 12. MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET

- (a) Once an overview and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 12 weeks from the date the report adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 12 weeks then the matter will be referred to the next meeting of Council for



review and consideration and Council will make a recommendation to the **Cabinet**.

- (b) The Overview and Scrutiny Committee will in any event have access to the **Cabinet's** Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the **Cabinet's** consultation process in relation to any key decision.

### 13. **RIGHTS OF THE OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the **Cabinet** and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### 14. **MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) The Overview and Scrutiny Committee or any sub-committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the **Cabinet**, the **Corporate Management Team** or such other officers as may be determined by the **Chief Executive** to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) their performance,

and it is the duty of those persons to attend if so required.

- (b) Where any Member of the **Cabinet** or officer is required to attend a meeting of the Overview and Scrutiny Committee under this provision, the Chair of the Committee will inform the Head of Paid Service. The Head of Paid Service shall inform the Member of the **Cabinet** or officer in writing giving at least 10 working days' notice of the meeting at which **they** are required to attend. The notice will state the nature of the item on which **they** are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, the Overview and Scrutiny Committee shall in consultation with the Member or officer, arrange an alternative date for attendance.

## 15. ATTENDANCE BY OTHERS

The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Staff Side and Members and officers in other parts of the public sector and may invite such people to attend, provided that they should be under no obligation to do so.

## 16. CALL-IN

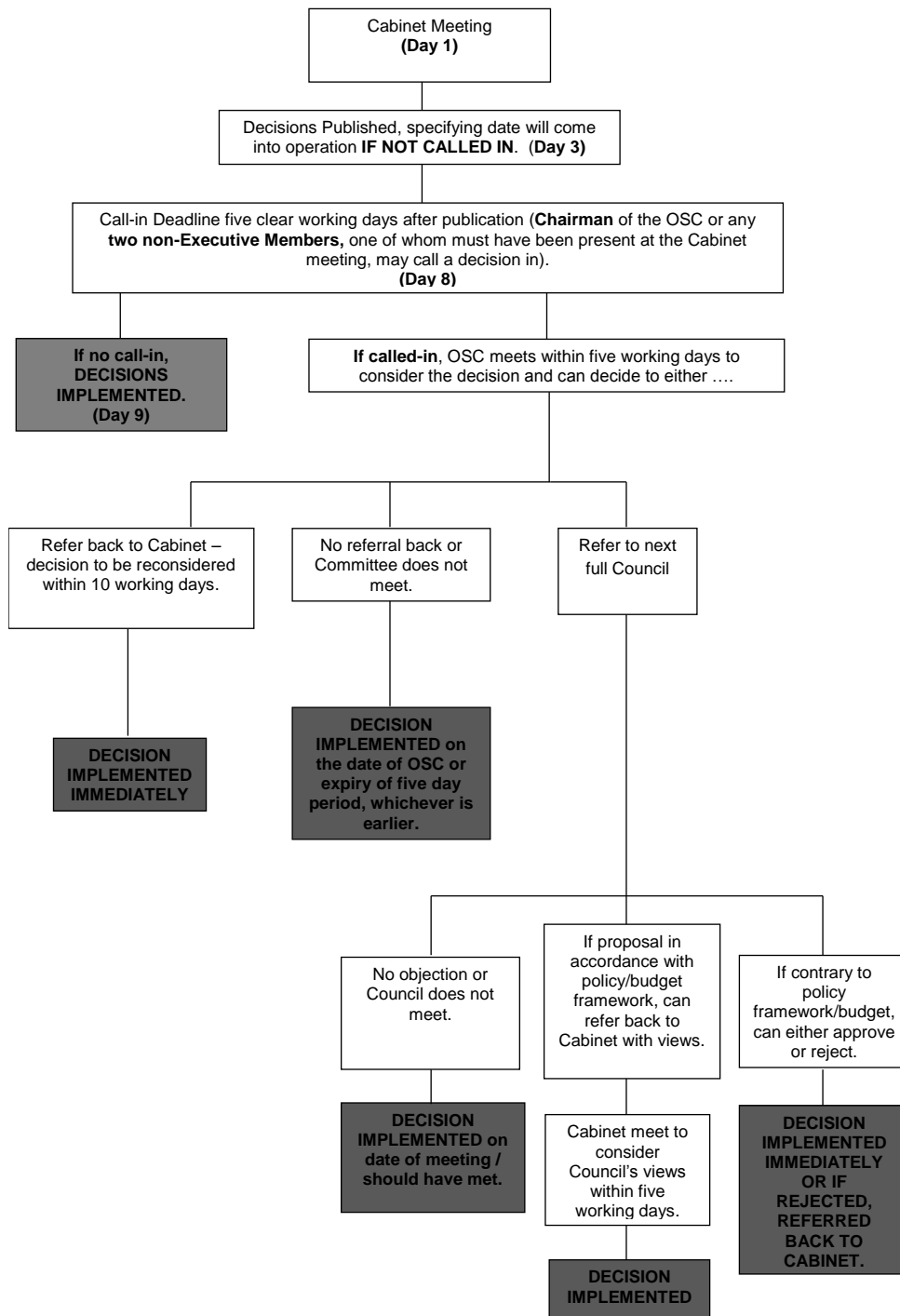
A flow-chart setting out the following process can be found at the end of this section.

- (a) When a decision is made by the **Cabinet** or a key decision is made by an officer with delegated authority from the **Cabinet**, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The person responsible for publishing the decision will send all Members of the Council copies of the records of all such decisions within the same timescale.
- (b) That record of the decisions will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Overview and Scrutiny Committee or any two non-Executive Members objects to it and calls it in.
- (c) During that period, the Head of Paid Service shall call-in a decision for scrutiny by the Committee if so requested by the **Chair** or any two non-Executive Members, one of whom must have been present at the Cabinet meeting and shall then notify the decision-taker of the call-in. The request for the call-in must state the reasons for the call-in. The Head of Paid Service shall call a meeting of the Scrutiny Committee on such date as **they** may determine, where possible after consultation with the **Chair** of the Committee, and in any case within five working days of the decision to call-in.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Council. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further five working day period, whichever is the earlier.
- (f) **No further action is necessary if** the matter has been referred to Council and the Council has not objected; and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to

the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the **Cabinet** as a whole, a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (h) Any decision referred back by the Overview and Scrutiny Committee or by Council for reconsideration by Cabinet or the decision-taker(s) shall not be subject to further call-in, whether or not it is altered or adjusted to accommodate some or all of the concerns of the original call-in request.

### Call-in Flow Chart



## 17. CALL-IN AND URGENCY

- (a) The call-in procedure set out above shall not apply where the decision being taken by the **Cabinet** is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The **Chair** of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the **Chair**, the **Vice-Chair's** consent shall be required. In the absence of both, the Head of Paid Service or **their** nominee's consent shall be

required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted, via the Overview and Scrutiny Committee, to Council with proposals for review if necessary.

## 18. **PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

- (a) The Overview and Scrutiny Committee shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest;
  - iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
  - iv) responses of the **Cabinet** to reports of the Overview and Scrutiny Committee;
  - v) consideration of any matter referred to it by the **Cabinet**;
  - vi) **any recommendations or reports from the committee's task and finish groups; and**
  - vii) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the **Cabinet** and/or Council as appropriate and shall make its report and findings public.

## 19. **Crime and Disorder Matters**

- 19.1 **The Council shall designate the overview and scrutiny committee as the Council's Crime and Disorder Committee with responsibility for scrutinising crime and disorder and community safety matters and the designated committee shall meet in this capacity at least once a year, or as required. The committee may:**
  - (a) **consider the decisions and actions undertaken by the responsible authorities involved in the Community Safety Partnership and make any recommendations or reports to the Partnership;**
  - (b) **request information from the responsible authorities;**
  - (c) **request attendance of officers or employees of the responsible authorities to answer questions or to provide information; and**

(d) receive Councillor Calls for Action under Rule 14.2 below in relation to crime and disorder and community safety issues in accordance with the Police and Justice Act 2006.

19.2 Any member of the Council may give notice to the Monitoring Officer to include an item that they consider to be a crime and disorder matter (see note 4 below) relating to their Ward to be included on the agenda for discussion at a meeting of the overview and scrutiny committee responsible for crime and disorder.

19.3 On receipt of the request, the Monitoring Officer shall notify the Chair of the committee of the receipt of the item and ensure that the item is included on the next available or subsequent agenda for consideration by the committee.

19.4 If the relevant committee decides not to make a report or recommendation in relation to the matter, it shall notify the member who referred the matter of its decision and the reasons for it.

19.5 Where the committee makes a report or recommendations it shall, as it considers appropriate:

(a) provide a copy of the report or recommendations to the member who referred the matter to the committee; and

(b) provide a copy of the report or recommendations to the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998) and the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) of the Crime and Disorder Act 1998).

[Note 4: "Local crime and disorder matter" in relation to a member means a matter concerning:

(i) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or

(ii) the misuse of drugs, alcohol and other substances, which affects all or part of their Ward.]

## 20. **PARTY WHIP**

In recognition of the importance and legitimacy of the overview scrutiny function afforded by the law, created to act as a check and balance on the executive, the use of a party whip, by any political party in the committee's deliberations is forbidden. Members are encouraged to contact the Council's Monitoring Officer should they become aware of its use.

## 21. **TASK AND FINISH GROUP OPERATING GUIDELINES**

Operating guidelines for Task and Finish Groups set up by the Overview and Scrutiny Committee:

<b>Formal Agenda</b>	Optional
<b>Informal minutes / notes</b>	Yes, and not routinely publicly available.
<b>Lead Officer(s)</b>	Lead Officer(s) from the relevant service area with support from a dedicated Democratic Services Officer.
<b>Action points</b>	To be compiled by the Democratic Services Officer as part of minutes and circulated to all relevant officers and reviewed from meeting to meeting.
<b>External / public involvement</b>	Each Task and Finish Group to determine whether meetings shall or shall not be public. Stakeholders shall be invited to attend and to contribute to the group's work programmes, including co-option to the group, as appropriate.
<b>Politically balanced</b>	Not essential, but there is an expectation that task and finish groups shall include representatives from each political group, as far as reasonably practicable.
<b>Composition</b>	Appointed by the Overview and Scrutiny Committee from non-executive members with the relevant experience / interest.  The lead Cabinet member may be invited to contribute in an advisory capacity to reviews.
<b>Size</b>	This shall vary according to the matter under discussion; however, groups should not normally comprise more than five members of the Council.
<b>Terms of Reference</b>	Terms of Reference shall be set and agreed by the Overview and Scrutiny Committee at the point of establishment and shall include:  (a) The specific issue to be considered; (b) A timescale and deadline; (c) Principal aims and objectives.

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**OFFICER EMPLOYMENT PROCEDURE RULES****1. RECRUITMENT AND APPOINTMENT****(a) Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are **closely connected** to **any** existing Councillor or 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 **them**.

**(b) Seeking support for appointment.**

- (i) 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) No Councillor will seek support for any person for any appointment with the Council.
- (iii) **Nothing in paragraphs (i) and (ii) shall preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.**

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

Where the Council proposes to appoint the Head of Paid Service, **or 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. APPOINTMENTS****HEAD OF PAID SERVICE**

- (a) The **Full** Council will approve the appointment of the Head of Paid

Service following the recommendation of the **Senior Officer Appointments Panel** that will comprise of the Leader and Deputy Leader of the Council, Leader of the Major Opposition Group or their nominee plus relevant Cabinet Portfolio Holder related to the appointment and one other Member from a Minor Opposition Group.

- (b) The Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the **Cabinet**.

#### 4. **APPOINTMENT OF OTHER CHIEF OFFICERS**

- (a) **The Senior Officer Appointments Panel** will appoint **Chief Officers**. That sub-committee must include at least one Member of the **Cabinet**.
- (b) An offer of employment as a **Chief Officer** shall only be made where no well-founded objection from any Member of the **Cabinet** has been received.

#### 5. **OTHER APPOINTMENTS**

Appointment of officers below **Chief Officers** are the responsibility of the Head of Paid Service or **their** nominee and may not be made by Councillors.

**The appointment process for other senior key officer roles will involve consultation and input with lead Members, at the discretion of the Chief Executive.**

#### 6. **DISCIPLINARY ACTION**

- (a) The Head of Paid Service, Monitoring Officer and **Section 151 Officer** (Chief Finance Officer) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months unless there are exceptional circumstances which are agreed by the **Cabinet**.
- (b) No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by an independent person designated under Regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, (as amended).
- (c) Councillors will not be involved in the disciplinary action against any **officer shown in section 7 below** except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though 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. **DISMISSALS**

### 7.1 Head of Paid Service, Section 151 Officer (Chief Finance Officer), Monitoring Officer

The Head of Paid Service, Section 151 Officer (Chief Finance Officer) or Monitoring Officer may not be dismissed by the Full Council unless the procedure set out in the following paragraphs is complied with:

- (a) The authority shall appoint the Independent Panel at least 20 working days before the relevant meeting.
- (b) The Independent Persons appointed by the Full Council under Section 28 (7) of the Localism Act 2011 shall comprise the Independent Panel.
- (d) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority shall take into account, in particular:
  - (i) any advice, views or recommendations of the Independent Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer.
- (e) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Independent Panel shall not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

### 7.2 Any Other Director Post or Post Reporting Directly to the Chief Executive

The Senior Officer Appointments Panel will consider appeals against dismissal from these posts. To comprise of five Members as identified in 3(a) above.

### 7.3 Other Employees

Councillors will not be involved in the dismissal of any officer below the Chief Officers (save for those in 7.2 above) except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though 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.

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## Working Together for Local People:

### Rother District Council's Member / Officer Protocol

#### 1. Introduction

1.1 The relationship between Members and officers is an essential ingredient that goes to the very heart of the successful working of the Council. This relationship should be characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy. Members and officers should feel free to speak to one another openly and honestly. Nothing in this protocol is intended to change this relationship. The purpose of this protocol, rather, is to help Members and officers to perform effectively by giving guidance on their respective roles, **inform their expectations and act** as a guide to dealing with those issues that most commonly arise.

#### 1.2

- a) This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. It should be read and operated in the context of any relevant legislation, national and local Codes of Conduct and guidance on effective corporate governance, the Council's Constitution and any other relevant Council policies.
- b) If a Member is unsure about any matter, they should contact the Monitoring Officer for appropriate advice or guidance.
- c) If any officer is unsure about any matter, they should contact their line manager, Head of Service or Chief Officer (Chief Executive, Deputy Chief Executive or Director - Place and Climate Change).

#### 2. Roles of Members and Officers

2.1 The respective roles of Members and officers are summarised as follows:

2.2 Both Members and officers act in the public interest and are indispensable to one another. Their individual responsibilities are, however, distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are employees of the Council and their job is to give advice to Members and the authority, and to carry out the Council's work under the direction and control of the Council, the Cabinet and relevant committees etc. Officers shall act in the best interests of the Council as a whole **at all times** and shall not give political advice. Mutual respect between Members and officers is essential to good local government.

#### Members

2.3 Members **collectively or individually** have **seven** main areas of responsibility:

- 1) determining the policy of the Council;
- 2) acting as advocates on behalf of their constituents;
- 3) **providing** political leadership;
- 4) representing the Authority externally;

- 5) being accountable for the Council's decisions;
- 6) ensuring the Authority is performing to the required standards; and
- 7) monitoring the Authority's performance and addressing areas where it is performing below agreed levels.

2.4 It is not the role of Members to attempt to manage the day-to-day operation of the Council's services. Members should be careful to avoid involvement in internal office management, discipline and other employment related issues, as the actions of a Member may be held to be the actions of the Council as an "employer".

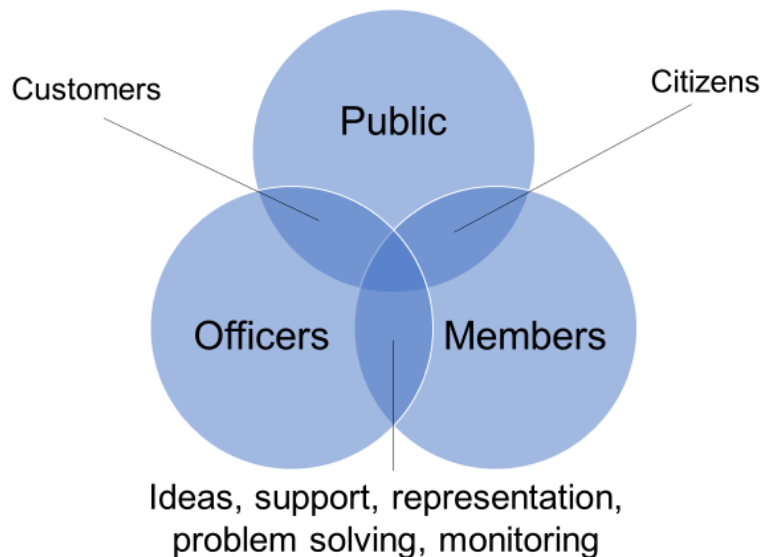
A quick guide **and visual diagram to show** some of their **ir** distinct roles:

**Members:**

- Accountable to the electorate
- Community leader for a ward
- Add a political dimension
- Set high level policy/strategy
- Involved in senior appointments

**Officers:**

- Accountable to the council
- Serve the whole council
- Politically impartial
- Ensure operational delivery
- Day to day employee management



2.5 All individual Members of the Council have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of overview and scrutiny.

2.6 Where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers (particularly those at a senior level in the Council) and the administration will differ from that with opposition groups.

2.7 However, Members in opposition still have the same rights and obligations in their relationships with officers and should be treated equally.

## Members of the Cabinet, Chairs and Vice-Chairs

2.8 Members of the Cabinet and chairs and vice-chairs of committees and any steering / working groups have additional responsibilities. Their relationships with officers may be different from, and more complex than, those of Members without those responsibilities.

### 2.9 **Formal Committee Meeting Agendas**

Committee and Cabinet meeting agendas are generally proposed to the Chair of a Committee by the appropriate senior officer. It is the Chair's (or leader in the case of the Cabinet) responsibility to decide on the agenda of a meeting (or Cabinet) and the Chair who determines the final agenda. The exceptions to this are where an item is legally required to be decided by a Committee or Council in a specific time period, where one of the three statutory officers have a duty to report or where at least 3 Members of a Committee (or Cabinet) propose a relevant item be added to an agenda at least 5 working days before the publication of the agenda.

## Officers

2.10 The role of officers is to give **impartial and non-partisan** advice and information to Members and to implement the policies determined by the Council.

2.11 **The Head of Paid Service, Monitoring Officer, and Section 151 Officer [Chief Finance Officer]** have responsibilities in law over and above their obligations to the Council, that they must be allowed to discharge.

## 3. Expectations

3.1 Members can expect from officers:

- (a) a commitment to the Authority as a whole, and not to any political group;
- (b) respect, dignity and courtesy;
- (c) a **positive** working partnership;
- (d) an understanding of, and support for, respective roles, workloads and pressures;
- (e) a timely **and helpful** response to enquiries and complaints (see 6.3 below);
- (f) professional advice, not influenced by political views or preference, **and** which does not compromise the political neutrality of employees;
- (g) regular up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;

- (h) awareness of, and sensitivity to, the political environment;
- (i) training and development in order to carry out their role effectively;
- (j) integrity, support and appropriate confidentiality;
- (k) not to have personal issues raised with them by employees outside the agreed procedures;
- (l) that employees shall not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- (m) that employees shall at all times comply with the Officers' Code of Conduct.

3.2 Officers can expect from Members:

- (a) a **positive** working partnership;
- (b) respect, dignity and courtesy;
- (c) an understanding of, and support for, respective roles, workloads and pressures;
- (d) political leadership and direction;
- (e) integrity, support and appropriate confidentiality;
- (f) not to be subject to undue pressure;
- (g) regard to the seniority of officers in determining what are reasonable requests, **while recognising** the potential vulnerability of junior officers;
- (h) that Members shall not use their relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- (i) that Members shall at all times comply with the local Code of Conduct.

## 4. **Potential Issues**

### **Working Relationships**

- 4.1 It is clearly important that there should be close working relationships between all Members and officers. However, such relationships should never be allowed to bring into question the individuals' ability to deal impartially with others. Any dealings between Members and officers should be conducted with mutual trust, respect and courtesy and neither party should seek to take unfair advantage of their position.
- 4.2 An employee who is one of their constituents may ask a Member for advice and support in the same way as any other member of the public. However, Members should be careful not to prejudice the Council's position in relation to disciplinary procedures or employment matters in



respect of any employee. A Member approached for help in such circumstances should first seek advice from the Monitoring Officer.

- 4.3 In seeking advice and support, Members should have due regard to the seniority of the officer with whom they are dealing and recognise that officers owe an overriding duty to the Council as a whole. Members should not in any circumstances seek to give direct instructions to officers. If Members are not satisfied with the response given, they may take the matter to the Service Manager, Head of Service or Chief Officer.
- 4.4 Members shall also not pressurise any officer to change their professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of officers or those who work for, or on behalf of, the Council.

### **Constructive Criticism**

- 4.5 It is an absolute requirement that Members and officers do not criticize each other personally or use inappropriate language or conduct in public about reports or actions taken. It is important that there should be mutual respect and courtesy between Members and officers and that no Member or officer should seek to take unfair advantage of their position.
- 4.6 Members have the right to criticise reports, or the actions taken by officers, but they should always avoid personal attacks on officers and ensure that criticism is constructive, well-founded and likely to lead to improved performance. They should not seek to blame or undermine the officer.

### **Appointments with Officers**

- 4.7 If a Member feels that it is necessary to have a face-to-face meeting with an officer, it is always best to make an appointment, to ensure availability and presence in the office of the officer. This will enable the Member and officer to identify a mutually agreeable day and time; the use of technology for ascertaining availability for such meetings should be used and the use of on-line face-to-face communication platforms for meetings to reduce unnecessary travel is encouraged wherever and whenever possible.
- 4.8 It is expected that there will be frequent contact between Cabinet Portfolio Holders and their respective Chief Officer / Heads of Service / Service Manager.

## **5. Local Members**

- 5.1 Officers and lead Cabinet Members should recognise that the fundamental role of a local Member is representing their Wards and responding to the concerns of their constituents.
- 5.2 Chief Officers and Heads of Service must ensure that all relevant officers are aware of the requirement to keep local Members informed of issues that affect their Wards and that the timing of such information allows Members to contribute meaningfully to any relevant discussions.
- 5.3 Local Members shall be informed about matters that significantly affect their Wards during the formative stages of policy development. Issues

may affect a single Ward, but others may have a wider impact in which case numerous Members will need to be consulted and kept informed.

- 5.4 Wherever a public meeting is organised by the Council to consider a local issue, all Members representing the electoral Ward(s) affected shall, as a matter of course, be invited to attend. Similarly, whenever the Council undertakes any form of consultation exercise, the local Member(s) shall be notified before the exercise is begun.

## 6. Members' Enquiries

- 6.1 The relationship between Members and officers should be characterised by partnership, empowerment and trust. In order to ensure delivery of the Council's Corporate Plan priorities and provision of high-quality public services it is essential that Members and officers work in a collaborative and mutually supportive manner. Officers should recognise the need for Members to receive information in a timely manner in order to carry out their constituency roles. Members should likewise be appreciative of the competing demands on officer time.
- 6.2 Heads of Service / Service Managers are responsible for ensuring that Members' enquiries are dealt with promptly and satisfactorily within their service areas.
- 6.3 Officers shall aim to provide a substantive response to Members' enquiries within five working days of receipt. If a substantive response cannot be provided within that timescale, officers shall contact the Member to explain the reason why and shall liaise with them regarding the timescale within which the full response shall be sent. Members are requested not to make repeated contact whilst waiting for the answer to a live enquiry.
- 6.4 An officer shall raise with their line manager / Head of Service any enquiry which would impose a disproportionate burden on their work and, if necessary, further discussion shall then take place with the Member concerned with a view to agreement of the approach to managing the response to the enquiry.
- 6.5 Information requested from a Member that is not related to their own electoral Ward will be shared with the relevant Ward Members when the information is provided.
- 6.6 Members' use of the out of hours service should be limited to extremely urgent events that cannot wait until the next working day and not used to report a service failure, such as a missed bin.
- 6.7 Members' enquiries which fall within the remit of constituents' complaints will be handled under the Council's Corporate Complaints Procedure.
- 6.8 The process outlined in this paragraph supplements Members' statutory and common law rights to information as detailed in paragraph 8.

## 7. Political Groups

- 7.1 Political group meetings, whilst they form an important part in the preliminaries to Council decision-making, are not formal decision-making bodies of the District Council and, as such, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and officers understand and interpret them accordingly.
- 7.2 Officer support to political groups shall not extend beyond providing information and advice in relation to Council business (not party-political business). It may be appropriate for officers to participate in discussions within political group meetings in relation to the professional advice they give. However, it is good practice for party political discussions and debates to take place and conclusions to be reached in the absence of officers, in order to avoid suspicion of impropriety or misunderstanding.
- 7.3 Officers shall respect the confidentiality of any political group discussions. Any breach of this part of the protocol shall be brought to the attention of the Monitoring Officer for consideration. For the avoidance of doubt, it shall be recognised by all that, in discharging their duties, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Members. Members shall, at all times, respect the political impartiality of officers and shall not expect or encourage officers to give a political view on any matter.
- 7.4 When an officer is requested to attend a political group meeting:
- (a) the request to attend shall be made through, and approved by, the appropriate Chief Officer;
  - (b) such a request shall only be made in relation to Council business; and officers shall:
    - (i) provide relevant factual advice and assistance;
    - (ii) leave during the deliberations of the political group on the issues;
    - (iii) respect the confidentiality of any party group decisions at which they are present;
    - (iv) not champion, defend, action a request or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the political group(s), unless and until such decisions have become the formal decisions of the Council; and
    - (v) inform the other political groups, offering them the right of the same information.

## 8. Correspondence

- 8.1 Emails relating to the Council shall be treated in the same way as formal business correspondence and its distribution considered accordingly. Members should restrict the distribution of email correspondence to the intended recipients and refrain from using multi address distribution lists (for example email replies copied to all Members) unless there is good reason so to do. It should be noted that email can be used for documentary evidence in matters such as disciplinary proceedings and libel cases even after it has been deleted. **The Council's policy governing the use and security of ICT facilities should be followed by Councillors and employees at all times.**
- 8.2 Official correspondence on behalf of the Council shall normally be sent in the name of the appropriate officer, rather than in the name of a Member. However, there are circumstances in which it is appropriate for correspondence to appear in the name of a Member. For example, a local Member may deal with correspondence with a local constituent in relation to a local matter in their name. Similarly, the Leader of the Council or a Lead Cabinet Member may deal with correspondence concerning their area of responsibility in their name. Any Member who receives correspondence should consider whether it is appropriate in the circumstances for it to be passed to an officer for a reply, or for them to reply in their name. The Chair of Council shall respond to correspondence addressed to them in consultation with the relevant officers. Any such correspondence should always have regard to the Council's policies, practices and procedures and any mechanisms, if appropriate, for changing them.
- 8.3 Members should be aware that correspondence via email and any social media platform relating to official council business is subject to Freedom of Information legislation.**
- 8.4 A Member is advised to seek advice, as necessary, from officers before sending any correspondence in their own name. Correspondence which creates legal obligations or gives instructions on behalf of the Council should never be sent out in the name of a Member. Correspondence includes any communication by letter, fax or email, texts, social media posts or other electronic means.

## 9. Support Services to Members and Party Groups

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying and transport) to Members is to assist them in discharging their duties as a District Councillor. Such support services shall therefore only be used on Council business. They should never be used in connection with any party-political activity or self-promotion. Members are required to comply with the provisions of the Members' ICT User Agreement when accessing the Council's network and email systems and when using any ICT equipment provided by the Council.

## 10. Publicity and Media

### Publicity

- 10.1 The Council wishes to encourage regular, open and two-way dialogue with its communities to ensure that the public are aware of the Council's activities, are informed about how to access services and are aware of opportunities for public participation in the democratic process.
- 10.2 The way information is published has changed significantly over time with online and social media being more prominent and instant. **The message that is being communicated in** publicity should be well considered as it is essential to ensure that local authority decisions on publicity are made in accordance with clear principles of good practice.
- 10.3 Members and officers of the Council shall, therefore, in making decisions on publicity, take account of the provisions of the national Code of Recommended Practice on Local Authority Publicity 2011. The Council's communications team can help to ensure publicity is timely, correct and targeted appropriately.
- 10.4 Particular care should be taken with Council publicity in the run-up to an election (the pre-election period). Additional guidance is issued at these times to help Members and officers.

### Media

- 10.5 Members wishing to publicise themselves or their political parties shall do so in an independent capacity without using Council resources.
- 10.6 When using Council email, or writing on behalf of the Authority, correspondence should not include political comments or criticise Council policy adopted by Full Council. If Members wish to make political statements in correspondence, they shall not use Council communications channels or give the impression their views are those of the Council.
- 10.7 The Council's Communications Team provides a press office function on behalf of the Council. Press enquiries requesting information or a response on behalf of the Council should be referred to the Communications Team.

## 11. When Things Go Wrong

- 11.1 This protocol is designed to provide the framework within which Members and officers work effectively together. However, the following process should be followed in the event of any difficulties arising.

### **Procedure for officers to follow when experiencing difficulties with Members**

- 11.2 From time to time the relationship between Members and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior

manager or Member, officers shall have recourse to a procedure whereby the complaint or grievance shall be referred to the Council's Monitoring Officer.

11.3 An informal meeting shall then be arranged between the relevant Member and officer, the Member's Group Leader and the Chief Executive. The Chair of the Audit and Standards Committee may also be invited to attend, where appropriate. If an informal resolution cannot be agreed between all parties, the complaint will then proceed to a formal Member complaint and be handled by the Monitoring Officer under the agreed arrangements for dealing with complaints against elected Members.

#### **Procedure for Members to follow when experiencing difficulties with officers**

11.4 A Member should not raise matters relating to the conduct, behaviour or capability of an officer in a manner that is incompatible with the objectives of this protocol. An officer has no means of responding to such criticism in public. If any Member feels that they have not been treated with the proper mutual trust, respect or courtesy or have any concern about the conduct or capability of an officer, they should raise the matter, in private, with the relevant Head of Service / Service Manager.

11.5 Any concerns with regards to a Head of Service / Service Manager or Chief Officer should be discussed in private with the Chief Executive. Where the officer concerned is the Chief Executive, the matter should be raised with the Chair of Council, Leader of the Council or Monitoring Officer, as appropriate to the circumstances. If the matter cannot be resolved informally it may be necessary to invoke the Council's Disciplinary Procedure.

#### **Whistleblowing**

11.6 Where a Member or officer is concerned about potential unlawful conduct of a Member or officer, the Council's whistle-blowing policy may also be relevant.

## **12. Interpretation**

Questions of interpretation of this protocol shall be determined by the Monitoring Officer.

## Hybrid Meeting Protocol – Formal Meetings

### Officers and Members MUST:

1. Join remote hybrid meetings from a suitable location and where possible, on a Rother District Council issued device, or an approved alternative arrangement.
2. Join the meeting at least 15 minutes before the start time; failure to do so may result in non-attendance / admittance to the meeting due to technical difficulties.
3. Apply the corporate backdrop, where technically possible.
4. Be aware of the content on their own devices that may be visible on the live broadcast.

### Members

1. Leave microphones muted and cameras ON off when not speaking and indicate to the Chair by the “hands-up” facility when wanting to speak.
2. Attendance at a remote hybrid meeting **will NOT** constitute attendance at a meeting for the purposes of the 6-month rule, provided that Members are seen and/or heard-
3. Members are requested to confirm 1 day in advance of the meeting of their intention to join remotely, where possible.
4. For the purposes of the call-in procedure in relation to Cabinet decisions, at least one of the two Members requesting a call-in must have been physically present at the relevant Cabinet meeting.
5. Committee Members present remotely will have speaking rights only – there will be no rights to move or second a Motion or vote on a Motion.
6. Committee Members present remotely cannot be substituted by a Member who is present in the room at the same time.
7. The Chair and Vice-Chair of any Committee MUST always be physically present at the meeting to Chair the meeting and in the case of the Vice-Chair take over proceedings where necessary. If the Chair is unable to attend the physical meeting and attends remotely, the meeting will be Chaired by the Vice-Chair or another Member elected to Chair the meeting who is physically present.
8. Committee Members present remotely will be asked for their contribution before non-committee Members who are in remote attendance.

9. Members attending remotely with a declaration of interest of a Personal and Prejudicial or Disclosable Pecuniary Interest nature will have to leave the remote meeting room and be invited to re-join following the item.
10. Members physically present in the meeting room must NOT also join the meeting via MS Teams.

### **Officers**

1. Leave microphones muted and cameras off when not speaking and indicate to the Chair by the "hands-up" facility when wanting to speak.
2. Officers will be expected to be physically present at meetings for significant or controversial items / major planning applications. The decision whether an officer attends a meeting remotely or in person will be made in conjunction with the relevant Head of Service / Director or Chief Executive / Deputy Chief Executive and in consultation with the relevant Chair.
3. If an officer requires support in delivering a presentation, they must source this from within their own department and discuss their arrangements with Democratic Services five working days before the meeting.

### **Public and other invited guests / speakers**

1. Members of the public will be able to join hybrid meetings remotely using a suitable device for the purposes of participation in any public speaking scheme in operation and in any other circumstances where they have been specifically invited to address a committee. They will be required to leave their cameras and microphones off until they are invited to speak.
2. They will be required to leave the remote meeting room once their participation has concluded. Other (non-public) guests and speakers invited to address a Committee will be asked to leave at the discretion of the Chair of the relevant committee.
3. For the purposes of speaking to a planning application, members of the public will be let into the remote meeting room at the start of the relevant planning application and will be asked to leave once the application has concluded. Members of the public will not be permitted to share content during a live broadcast. Any material to be shown by the public will have to be provided to Rother District Council in advance of the meeting.



## Rother District Council

<b>Report to:</b>	Cabinet
<b>Date:</b>	9 May 2022
<b>Title:</b>	Member Training and Development Strategy
<b>Report of:</b>	Malcolm Johnston, Chief Executive
<b>Cabinet Member:</b>	Councillor Prochak
<b>Ward(s):</b>	N/A
<b>Purpose of Report:</b>	To consider the recommended amendments of the Member Development Task Group to the Council's Member Training and Development Strategy for onward recommendation to Council.
<b>Decision Type:</b>	Non-Key
<b>Officer Recommendation(s):</b>	<b>Recommendation to COUNCIL:</b> That the revised Member Training and Development Strategy be approved and adopted.
<b>Reasons for Recommendations:</b>	To ensure that the Member Training and Development Strategy is refreshed to take account of new and emerging practice in the field of Member development in readiness for the all-out elections in May 2023.

### Introduction

1. The Council has had a Member Training and Development Strategy in place since 2007 as part of the Council's commitment to Member Training and Development. The Strategy sets out how the Council will develop its elected Members in order to assist both the Council in achieving its aims and priorities in accordance with the Corporate Plan and to assist Members to manage with the increasing demands placed upon them.
2. Since its introduction, the Strategy is reviewed and re-adopted in the year preceding the District Council elections to ensure that the Strategy remains fit for purpose and has taken account of any new or emerging issues.

### Review

3. The draft Strategy document, attached at Appendix A, was considered by the Member Development Task Group (MDTG) at its last meeting held on 21 February 2022. Following review, the Strategy has been amended in relation to the following areas:

- all Members during their four-year term and staff receive an appropriate level of carbon literacy awareness training to help achieve the Council's goal of become carbon neutral by 2030;
  - periodic meetings be held with Committee Chairs and Vice-Chairs to discuss the training needs of their committees to enable the effective discharge of the committee's functions; and
  - training and development opportunities be shared with parish and town councils, at no additional cost to the Council, wherever appropriate.
4. Essentially, through the Strategy and direction of the MDTG, the Council commits itself to:
- providing an extensive Member Training and Induction Programme that ensures all Members, both new and returned, can fulfil their responsibilities to the local community and provide clear leadership;
  - identifying Members' individual training needs, through a Training Needs Analysis conducted every two years (or as otherwise agreed);
  - providing adequate resources (both internal and external) to meet Members' training and development requirements within a structured programme; and
  - ensuring that access to learning and development takes into account diversity of needs.

### **Environmental**

5. The Strategy now reflects the Council's commitment to do all that it can within its powers, to make Rother District carbon neutral by 2030, taking into account both production and consumption emissions by ensuring that adequate awareness training is provided to Members and staff.
6. As is currently the practice, training and development activities will be delivered in a variety of ways and when and where appropriate this will be remotely, reducing journeys and therefore the carbon footprint to the Town Hall.

### **Conclusions and Recommendation**

7. With District Council elections only some 14 months away, it is vital that the Council has a clear strategy in place for the development of its elected Members. Members and officers need to commit to the expectations that are placed on them through the Strategy in order for the Strategy to be a success and for the potential benefits to the Council and the wider community to be realised.

### **Risk Management**

6. Failure to invest both financial and human resources in the development of elected Members could potentially result in poor decision making and ultimately costly legal challenges.

<b>Other Implications</b>	<b>Applies?</b>	<b>Other Implications</b>	<b>Applies?</b>
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	Yes	Access to Information	No
Risk Management	Yes	Exempt from publication	No
		Legal	No

Chief Executive:	Malcolm Johnston
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Appendices:	Appendix A – Member Training and Development Strategy
Relevant Previous Minutes:	
Background Papers:	

# MEMBER TRAINING AND DEVELOPMENT STRATEGY

May 2022



## 1. CORPORATE COMMITMENT

Rother District Council is committed to developing its elected Members in order to assist both the Council in achieving its aims and priorities in accordance with the Corporate Plan and to assist Members to manage with the increasing demands placed upon them. Member development and training is a joint commitment between Officers and elected Members and by working in partnership, appropriate investment in relevant training and development will be identified and resourced.

It is essential that elected Members are given equal opportunity to develop their knowledge and learn new skills to promote partnership working and community engagement to provide effective leadership to their local communities and lead a modern and progressive District Council of the future.

It is likely that individuals becoming elected Members for the first time, as well as those returned and undertaking new roles and responsibilities, will not necessarily have all the skills, knowledge and understanding they need to be effective. They will need training and development not only to initially acquire these abilities but regular training and development to keep their skills current and relevant to the changing environment and context.

The Council commits itself to elected Member training and development through:

- an extensive Member Training and Induction Programme that ensures all Members, both new and returned can fulfil their responsibilities to the local community and provide clear leadership;
- the identification of Members' individual training needs, through a Training Needs Analysis conducted every two years (or as otherwise agreed);
- the provision of adequate resources (both internal and external) to meet Members' training and development requirements within a structured programme; and
- ensuring that access to learning and development takes into account diversity of needs.

In 2019, Rother District Council declared a climate emergency and pledged to do all that it can within its powers, to make Rother District carbon neutral by 2030, taking into account both production and consumption emissions. To this end, it is essential that all Members and staff receive an appropriate level of carbon literacy awareness training to enable them to help achieve this goal during the four year term of any given administration.

## **2. RESOURCES**

The Council will make available sufficient financial and human resources to meet the essential training and development needs of elected Members to improve and progress the agreed policies and strategies of the Council and the Council's priorities within the Corporate Plan.

## **3. MEMBER DEVELOPMENT TASK GROUP**

The Council has established the Member Development Task Group (MDTG) to:

- lead on Member development activities and on-going arrangements for Member development in conjunction with Democratic Services;
- evaluate the effectiveness of training and development and implement improvements to activities as they are identified;
- champion Member development at Rother District Council;
- analyse Member development needs at a corporate and individual level in the context of the Council's Corporate Plan for the future; and
- encourage and raise awareness of development opportunities to Members.

The controlling administration will appoint a Member Training and Development Champion who will act as Chairman to the MDTG. All Task Group Members will act as training and development "champions" for the Members of their political group and encourage participation in training opportunities.

Each political group serving on the Council will be represented on the MDTG by the Group Leader or in the case of the controlling Group, a representative, if appropriate. To ensure resilience and increased participation by smaller political Groups, all Group Leaders are able to send a substitute, if they are unable to attend. Membership will also include two newly elected Members following the ordinary elections held every four years together with any independent Members who are not part of a Group.

Rother District Council will nominate an Officer to be the single point of contact for training and development who will work closely with the Member Development Champion and the Corporate Management Team / Heads of Service.

The MDTG will have responsibility for approving the training and development programme and for providing a steer for future learning and development requirements.

## **4. INDUCTION PROGRAMME**

A comprehensive induction programme will be provided for all Members following the District Council elections and to those Members elected at by-elections. Notification of key dates will be sent to all candidates prior to the election. The induction programme will be developed and monitored by the MDTG and will encompass the following:

- knowledge based learning;
- skills based learning (including IT / Social Media);
- community issues (including community leadership and planning, public consultation, dealing with complaints);
- regulatory functions – planning and licensing; and
- scrutiny process and specific skills required for that function.

An Officer buddy from Democratic Services will be allocated as a contact point to assist newly elected Members until they are familiar with the way in which the Council operates and are able to find their way around. Political groups will also be encouraged to allocate Member buddies/mentors for all newly elected Councillors within their Groups.

## **5. IDENTIFICATION OF MEMBERS' TRAINING AND DEVELOPMENT NEEDS**

All Members will be required to actively participate and ensure that training and development needs are identified, through the completion of a Training Needs Analysis every two years (years 1 and 3 of the 4-year cycle), unless otherwise determined by the MDTG. This structured process will identify individual development needs and enable the appropriate investment of resources in the training and development of all Members.

The Council has agreed that those Members appointed to a regulatory committee (Planning or Licensing and General Purposes) will need to undertake an annual mandatory training session, to the satisfaction of the relevant Head of Service, prior to taking an active part in the decision-making processes of these committees. The MDTG has also determined that all Members should attend an equality and diversity training session within their term of office.

The majority of training and development opportunities will be relevant to all Members and the requirement can arise from a number of sources, including:

- new legislation or obligations placed on the Council;
- the Council's strategic priorities;
- major policy changes or new initiatives by the Council;
- requests from Members for knowledge-based training to provide them with a more detailed knowledge base on particular services; and
- identified skills-based training (e.g. scrutiny skills).

Periodic meetings will also be held with Committee Chairs and Vice-Chairs to discuss the training needs of their committees to enable the effective discharge of the committee's functions.

There will be other training that will be more relevant to some Members due to the different roles of Members or because of the different competency levels of Members in particular areas. This could include, for example, interview skills for Cabinet Members, Chairmanship skills for Chairs / Vice-Chairs and training for opposition Members.

As far as possible, training will take account of Members' current and prospective future roles and responsibilities so they are prepared for current challenges as well as those they may face in the future. Members will also be encouraged to complete a Diversity Questionnaire which will assist the MDTG to ensure equal access to learning and development opportunities are available to all.

## **6. MEETING MEMBERS' TRAINING AND DEVELOPMENT NEEDS**

The Council will endeavour to meet Members' training and development needs in the way that is most appropriate for them.

This may be through an “off the shelf” programme, course or seminar provided by an external organisation; it may be by way of a tailor made programme developed for the Council on a specific topic; or it may be provided in-house by Council Officers, with or without the help of an external consultant. Where possible, copies of any training materials circulated at training events will be made available electronically on the Members’ Area of the website and all Members will be advised of their availability.

Members are encouraged to attend external training events or conferences that are of relevance to their role and should contact their Group Leader or the Democratic Services Manager in the first instance regarding attendance. Following attendance at an external training event or conference Members will be required to write a report on the event and provide copies of any learning materials, if available. These will be published in the Members’ Bulletin and copies will be made available electronically on the Members’ Area of the website.

Wherever appropriate, consideration will be given to the opportunity to promote joint development activities with other local authorities and partner organisations, including the joint procurement of such development activities. Wherever appropriate, training and development opportunities will be shared with parish and town councils, where this can be done at no additional cost to the Rother District Council.

## **7. EVALUATION**

The Council is committed to obtaining feedback on the effectiveness of training and development undertaken and the MDTG use the results in planning future programmes. Members will be required to complete an evaluation form and in addition provide feedback on how the skills/knowledge gained has been of benefit to them and the Council.

## **8. REPORTING ON PROGRESS**

All Members will be kept informed of Member training progress and evaluation through the minutes of the MDTG, which are published on the Intranet of Mod-Gov on the website as well as highlighted within the Members’ Bulletin. The MDTG also reports annually to full Council on training and development activity in general.

Malcolm Johnston  
Chief Executive

Councillor Doug Oliver  
Leader of the Council

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**Rother District Council**

<b>Report to:</b>	Cabinet
<b>Date:</b>	9 May 2022
<b>Title:</b>	Members' Allowance Scheme 2023-28
<b>Report of:</b>	Malcolm Johnston, Chief Executive
<b>Cabinet Member:</b>	Councillor Oliver
<b>Ward(s):</b>	N/A
<b>Purpose of Report:</b>	To consider the options for setting the Members' Allowance Scheme 2023-28
<b>Decision Type:</b>	Non-Key
<b>Officer</b>	
<b>Recommendation(s):</b>	It be <b>RESOLVED</b> : That the preferred Option for setting the Members' Allowance Scheme 2023-28 and the appointment of an Independent Remuneration Panel be confirmed.
<b>Reasons for Recommendations:</b>	To agree the timescale for a review of Member Allowances and appointment of an Independent Remuneration Panel.

**Introduction**

1. The current Members' Allowance Scheme was approved by Council in February 2019 to take effect for the Council period 2019-2023. The Scheme was further amended in July 2020 by the additional provision of a Cabinet Spokesperson Special Responsibility Allowance payable to non-Cabinet Members.
2. In accordance with the Local Authorities (Members Allowances) (England) Regulations 2003, before an authority makes or amends its allowance scheme, the authority shall have regard to the recommendations made in relation to it by an Independent Remuneration Panel (IRP). Whilst it remains the Council's decision as to what allowances are paid, it must have regard to recommendations made by an IRP.
3. This report considers the options that are available to set the Members' Allowance Scheme payable from May 2023 when the current scheme expires. Whilst there is not a legal requirement to review the allowances every four years, the Council would be unable to implement any indexed increases beyond that which is currently agreed. This means that the allowances as at the end of the civic year 2022/23, i.e. those payable from May 2022, would remain at those levels from May 2023 until such times as a new scheme is adopted.

## Options

4. The following options are put forward for consideration:

### **OPTION 1 – 2022 REVIEW**

Recruit new IRP members during September 2022 and conduct review in October / November 2022 for allowances to be agreed by full Council in December 2022 to apply from May 2023 (this is the usual approach).

#### **Advantages**

- All current serving Members will be consulted and a cross section interviewed by the IRP, adding value to the deliberations of the IRP with first-hand experience and evidence of the role and expectations placed on elected Members.
- Members' Allowance Budget requirement for the period 2023-28 will be known by the end of 2022 (save for any agreed annual uplift arrangements).
- Allowances to apply from May 2023 can be confirmed to candidates standing in the 2023 district council elections and may have an impact on an individuals' decision to stand or not.
- Scheduled officer resources available in 2022/23 to convene and support the IRP in undertaking the review.

#### **Disadvantages**

- Current administration setting the allowances to be paid to the newly elected Council in May 2023 that may want to set its own.
- The achievement of the Financial Stability Programme in meeting the Council's savings targets will be unknown.

### **OPTION 2 – 2023 REVIEW**

Recruit new IRP members in September 2023 and conduct review in October / November 2023 for allowances to be agreed by full Council in December 2023, with any increase to be backdated to May 2023.

#### **Advantages**

- Allows newly elected Council to set own allowances in light of known financial position at that time.
- Savings targets identified through the Financial Stability Programme will be known.
- Any changes to the decision making structure as a result of the current Constitution Review will have been in place for a period of time and any relevant impact known.

#### **Disadvantages**

- No increase in the Members' Allowance Scheme until such times as the new Council is elected in May 2023 and the review completed.
- Review must be completed before the end of the 2023/24 financial year to enable any back-dating to May 2023.
- Current Members not standing / re-elected unable to contribute and add value to the review (but could be canvassed for views prior to elections).
- No certainty of level of allowances for the duration of the next Council for candidates standing in 2023 elections.

## **Independent Remuneration Panel**

5. Whichever option is agreed, officers will need to recruit and appoint a new IRP as the membership of the Council's previous IRP have served on a number of occasions and it is considered appropriate and best practice to recruit new IRP members. The IRP must consist of three or more people and its statutory role is to make recommendations to the Council:
  - as to the amount of basic allowance that should be payable to its elected members;
  - about the roles and responsibilities for which a special responsibility allowance should be payable and as to the amount of each such allowance;
  - as to whether the Council's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and, if such a recommendation is made, the amount of this allowance and the means by which it is determined;
  - on other allowances (i.e. travel and subsistence allowance and allowances for attendance at certain meetings and conferences)
6. The recruitment and appointment of the IRP is an officer process and Member input is not appropriate in the interests of probity. A recruitment pack will be compiled and the role advertised by way of the website and social media routes. The recruitment process from advertisement to appointment will take between 6 and 8 weeks. The costs associated with the last review were £100 per meeting plus expenses – in total just under £1,000.

## **Financial Implications**

7. The current budget for Members' Allowances is £225,640.00 per annum. This covers Basic Allowance paid to all 38 Members and Special Responsibility Allowances paid to Cabinet Members, Committee Chairs, Group Leaders and Cabinet Spokespersons.
8. There will be costs associated with the establishment of the IRP, yet to be agreed, but will be kept to a similar level as in 2018.

## **Legal Implications**

9. The review process will be undertaken in accordance with the Local Authorities (Members Allowances) (England) Regulations 2003 and Local Government Act 2000.

## **Risk Management**

10. It is a statutory duty for an IRP to be convened and make recommendations on Members' Allowances and for the Panel to comprise at least three independent persons. Failure to convene an IRP in line with statute would leave the Council open to criticism and potential reputational damage.

## **Environmental**

11. In conducting both the recruitment and review processes, the use of on-line face-to-face communication platforms for meetings to reduce unnecessary

travel and electronic communication and consultation methods will be encouraged wherever and whenever possible to keep the carbon footprint of the review to a minimum.

<b>Other Implications</b>	<b>Applies?</b>	<b>Other Implications</b>	<b>Applies?</b>
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	External Consultation	No
Environmental	Yes	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	None
Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None