

CHAPTER 1

Part 1 - Summary and Explanation

THE COUNCIL'S CONSTITUTION

The Constitution sets out how the Council will operate, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

WHAT'S IN THE CONSTITUTION?

Article 1 of the Constitution commits the Council to exercising all its powers and duties in accordance with the law and this Constitution in pursuit of the Council's vision for

“A successful, prosperous and healthy community which offers a good quality of life for all the people of Telford & Wrekin.”

Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee and the Audit Committee (Article 9).
- Area working arrangements (Article 10)
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

HOW THE COUNCIL OPERATES

The Council is composed of 54 councillors elected every four years. Councillors 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.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

All councillors meet together as the Council. Meetings of the Council take place approximately every 2 months and are open to the public unless items to be discussed are of a confidential nature. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council and up to 9 members of the Cabinet which is the body which takes decisions about the running of the Council and

the implementation of its policies. It also appoints the members of the Scrutiny ~~Leadership Board-Committees~~ and all other committees/boards of the Council.

The Council holds the Cabinet and the other Council committees and boards to account by receiving reports from them at its meetings and receiving questions and answers on these reports. Some Council meetings will include “public assembly sessions” where spokespersons of partner organisations will be invited to participate with Councillors in debates about key issues affecting the Borough. In addition, there will be an annual “State of the Borough” debate, again involving partner organisations, which will be used to inform the policy framework and budget setting.

HOW DECISIONS ARE MADE

The Cabinet is the part of the Council which is responsible for most operational decisions. The Cabinet is made up of the Leader and up to 9 Councillors appointed by the Council. When major decisions (called “Key” Decisions) are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. This Plan must include at least those decisions which the Cabinet anticipates it will have to make over the next 4 months. If a Key Decision needs to be made which is not in the Forward Plan, special provisions exist to enable this to happen.

If these major decisions are to be discussed at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet 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.

OVERVIEW AND SCRUTINY

There ~~are 7~~ ~~is a~~ Scrutiny ~~Leadership Board-Committees~~ and a Scrutiny Assembly which support the work of the Cabinet and the Council as a whole. This allows members outside the Cabinet and citizens to have a greater say in Council matters by investigating issues of local concern. This can include questioning officers of the Council and inviting people from outside the Council to give opinions and expert advice. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny ~~Leadership Board-Committees~~ and Scrutiny Assembly also monitor the decisions of the Cabinet. They can ‘call-in’ a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

AREA WORKING ARRANGEMENTS

In order to give citizens a greater say in local affairs, the Council is considering the introduction of area working arrangements. The Council will decide on whether to introduce these arrangements in all or parts of the district.

THE COUNCIL’S EMPLOYEES

The Council employees (called ‘officers’) give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol governs the relationships between officers and councillors

Article 7 – Overview and Scrutiny Commissions

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OVERVIEW AND SCRUTINY

Explanatory Comment

The overview and scrutiny function is a central element to this constitution. The Scrutiny ~~Leadership Board Committees~~ and Scrutiny Assembly will meet in public to discuss and make recommendations on the development of policies and hold the Cabinet to account for their actions. They will also have a key role in considering other matters of local concern. **[Derivation: Section 21: Local Government Act 2000]**

The guiding principle for the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions. This is best achieved by an inclusive process covering members, partners, service users and employees.

Structure:

- Group Leaders will appoint their own representatives to the ~~6 Lead Scrutiny Member 7 Scrutiny Committees~~ ~~roles making up the Scrutiny Leadership Board~~ in line with political balance requirements. These representatives cannot be Cabinet Members, Cabinet Assistants or the Mayor.
- All Members of the Council will automatically become members of a Scrutiny Assembly, excluding Cabinet Members, Cabinet Assistants or the Mayor.
- All scrutiny standing co-optees will be members of the Scrutiny Assembly.
- The Scrutiny ~~Committees Leadership Board~~ may appoint standing groups to which it can delegate areas of responsibility to scrutinise in detail.

Roles:

- ~~The Scrutiny Leadership Board's Committees' role is to scrutinise the work within the remit of the relevant priority area in the Council and relevant partner organisations. The Scrutiny Chairmen will liaise with Cabinet Members, co-ordinate, plan and approve a programme of work for the Scrutiny Assembly and support the leadership of the scrutiny process within the Council.~~
- ~~The Scrutiny Leadership Board has overall responsibility for ensuring that the Council's scrutiny function is effective and to develop action plans for ongoing improvement.~~
- ~~Collectively, the Scrutiny Leadership Board is responsible for scrutiny of the Council's overall priority of Transforming Telford & Wrekin. Each of the 6 Chairmen of the 7 Scrutiny Committees Leadership Board Members takes responsibility for one of the Council's other Community Priorities.~~
- The Scrutiny ~~Leadership Board Chairmen~~ will exercise overall responsibility for the finances made available to them.
- The Scrutiny ~~Leadership Board Chairmen~~ must report annually to full Council on the workings of the Scrutiny and make recommendations for future work programmes and amended working methods if appropriate.

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- The Scrutiny ~~Leadership Board~~Committees and –and Scrutiny Assembly will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.
- ~~The Scrutiny Assembly will scrutinise the work of the Council and the Cabinet on a service-based and/or cross-cutting basis.~~
- The Scrutiny process allows the participation of voting statutory representatives as co-optees for education matters in scrutiny. The Scrutiny ~~Committees Leadership Board~~ may also appoint non-voting representatives as standing co-opted members of scrutiny except co-optees on the Joint Health Scrutiny Committee who will have voting rights as agreed by Full Council.

- (c) they are no longer Councillors of this Council; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect immediately upon receipt of notice by the Head of Audit & Democracy, or
- (e) they are removed from office, either individually or collectively, by resolution of the Council following a written notice of no confidence of at least 10 working days notice and signed by at least 25% of all Councillors. If a motion of no confidence is passed the Cabinet member(s) shall immediately cease to act.
- (f) the Council removes them from office, either individually or collectively, but only in the event of a change in political control of the Council.

7.05 Proceedings of the Cabinet

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

7.06 Responsibility for functions

The Leader will recommend and the Council shall determine which Cabinet functions shall be allocated to individual members of the Cabinet except in so far as the Leader may determine those which shall be reserved to the Cabinet. These responsibilities may be amended by the Leader on written notice to the Head of Audit & Democracy, who will report on the amendments to the next meeting of the Council.

The Leader will recommend and the Council will determine a list setting out those Cabinet functions which are the responsibility of the Cabinet and which individual members of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

7.07 Cabinet Assistants

The Leader shall appoint such members to provide advice and support to particular Cabinet Members. The Leader will advise the Head of Audit & Democracy in writing of the names of designated Cabinet Assistants. These members will be known as 'Cabinet Assistants'. Persons occupying such positions will not themselves be members of the Cabinet and do not have any Executive or decision making authority. They will not be entitled to vote at Cabinet meetings. Neither will they be entitled to act as members of any Scrutiny Committee. They will hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors of this Council under **Part III of the Local Government Act 2000** (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors of this Council; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect immediately upon receipt of notice by the Head of Audit & Democracy.

Regulatory and Other Committees

Explanatory Comment

Committees will need to be created to undertake non-Cabinet functions under powers delegated from full Council. By way of example planning and licensing are not functions of the Cabinet.

8.01 Regulatory and other committees

The following committees will be appointed by full Council. Delegated powers will be given to these committees to discharge their relevant functions.

Committees

Functions

Plans Board

- Town and Country Planning and Development Control
- Miscellaneous powers in relation to footpaths, bridleways, use and enjoyment of highways and duty to keep definitive map and statement under review.
- Tree Preservation Orders (where objections have been received)
- Protection of important hedgerows

Licensing Committee

- Licensing and Registration functions excluding those relating to social care.
- Elections.
- Health & Safety at Work.
- Health Act 2006 Part 1 Chapter 1
- The naming and status of areas and individuals.
- Power to make, amend, revoke or re-enact bye-laws.
- Power to promote or oppose local or personal Bills.
- To make payments etc in cases of maladministration.
- Licensing Act 2003
- Gambling Act 2005

Standards Committee

- Matters relating to ethics, standards and governance.

Audit Committee

- Matters relating to governance and overseeing the audit, risk management and financial statements processes.

Council Constitution Committee

- To review and recommend changes to the Constitution of the Council

Committees

Adult Care and Support Scrutiny Leadership Board Committee

Efficient and Community Focused Council

Community Protection and Cohesion Scrutiny Committee

Housing, Regeneration and Prosperity Scrutiny Committee

Active Lifestyles – Leisure and Culture Scrutiny Committee

Environment and Rural a Areas Scrutiny Committee

Children and young People Scrutiny Committee Committee

Appeals Committee

Personnel Board

Functions

~~• To plan, advise and oversee the work of the Scrutiny Assembly.~~

~~• To ensure that Scrutiny effectively scrutinises the work of the Council, its committees and the Cabinet in relation to the Corporate Priority for , including consideration of policy and budgetary issues.~~

~~• To scrutinise the work of other organisations relating to this priority in accordance with national legislation and good practice.~~

• To hear and determine all appeals except those which by statute require to be determined by a separate body, e.g. social services appeals

• Appointment of Corporate Directors and Statutory Officers Local Government Pension Scheme

• To agree at a strategic level all matters relating to the Council's employees

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Footnote

(i) General functions relating to all committees are listed above which also include Standards Committee, Audit Committee and the Scrutiny ~~Leadership Board Committees.~~

(ii) The following functions listed for Licensing Committee will be reserved to full Council for determination: -

- power to make, amend, revoke or re-enact bye-laws
- power to promote or oppose personal bills

13.04 **Decision making by the full Council**

Subject to Article 13.08, when considering any matter, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution

13.05 **Decision making by the Cabinet**

Subject to Article 13.08, when considering any matter, the Cabinet, individual member of the Cabinet or officer exercising delegated powers will follow the Cabinet Decision Procedures Rules set out in Part 4 of this Constitution.

13.06 **Decision making by the Scrutiny- ~~Committees~~ ~~Leadership Board~~**

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

13.07 **Decision making by other Committees and Boards established by the Council**

Subject to Article 13.08, other Council Committees, Boards will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.08 **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.**

2. **ORDINARY MEETINGS**

2.1 Ordinary meetings of the Council will take place in accordance with the calendar of meetings. Ordinary meetings will:

- (i) elect a person to preside if the Speaker and Deputy Speaker are not present;
- (ii) have prayers led by the Speaker or a nominee
- (iii) receive apologies for absence (if any)
- (iv) deal with any business required by statute to be done before any other business
- (v) approve the minutes of the previous meeting and any outstanding from previous meetings;
- (vi) receive any declarations of interest from members;
- (vii) receive any announcements from the Speaker, the Leader, the Mayor, members of the Cabinet or the Head of Paid Service;
- (viii) deal with any business from the previous Council meeting;
- (ix) receive reports from the Cabinet, and receive questions and answers on any of these reports;
- (x) receive reports from the Council's committees and receive questions and answers on any of these reports. All recommendations to Council for approval contained within such reports to be clearly identified on the agenda for the meeting;
- (xi) receive reports about and receive questions and answers on the business of external organisations;
- (xii) receive statutory reports:
- (xiii) to answer questions received from members under Rule 10 in the order in which they were received
- (xiv) consider motions from members under Rule 11 in the order in which they were received; and
- (xv) consider any other business specified in the Summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Scrutiny ~~Leadership Board~~ Committees – and Scrutiny Assembly for debate.

2.2 The order of items (i), (ii), (iii) or (iv) of paragraph 2.1 shall not be varied. The order of other business may be varied:-

- (i) at the discretion of the Speaker, prior to the meeting following consultation with the Leader or at the meeting

- (ii) considered by the Leader in proposing budget and policy framework to the Council for the coming year.

5. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES

5.1 Allocation

As well as allocating seats on committees, the Council may allocate seats in the same manner for substitute members, and these will be appointed at the Annual Council meeting. Subject to the requirements of Rule 5.2, substitute members may also be appointed by the relevant political group except that there should be no substitute arrangements in relation to the following: Standards Committee and Audit Committee, Personnel Board, and Scrutiny ~~Leadership Board Committees~~, except in the case of Call-In Meetings. The appropriate Group Leader will be required to notify the Head of Audit & Democracy of the appointment.

5.2 Number

For each committee where substitutes are permitted, the Council or relevant political group will appoint no more than the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee.

5.3 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

5.4 Substitution

Substitute members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after that member notifying the Head of Audit & Democracy one hour before the start of the meeting of the intended substitution.

6. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Head of Audit & Democracy and notified in the summons.

7. NOTICE OF AND SUMMONS TO MEETINGS

The Head of Audit & Democracy 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 working days before a meeting, the Head of Audit & Democracy will send a Summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The Summons will state the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by reports

8. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Speaker. Where these rules apply to Committee, Board and Scrutiny ~~Leadership Board Committee~~ meetings, references to the Speaker also include the Chairman of Committees and Boards.

9. QUORUM

The quorum of a meeting shall be 14 members. During any meeting if the Speaker 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 Speaker. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. QUESTIONS BY MEMBERS

10.1 On reports of the Cabinet or Committees

A member of the Council may ask the Leader or the Chairman 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 under consideration by the Council.

10.2 Questions on notice at full Council

Subject to Rule 10.3, a member of the Council may ask:

- the Speaker;
- any member of the Cabinet; or
- the Chairman of any Committee or Board.

At any ordinary meeting of the Council a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

10.3 Question and Answer Process

- (a) There will be a maximum of 30 minutes allowed for questions and answers.
- (b) Questions will be dealt with strictly in accordance with the order in which they are received by the Head of Audit & Democracy.
- (c) A member asking a question will refer to that question as printed and circulated rather than to read out the question.
- (d) Any question not answered within the 30 minute time limit will receive a written reply within 7 working days.
- (e) A member asking a question under Rule 10.2 may respond once without notice to the reply from the member to whom the first question was asked. The questioner's response must arise directly out of the original question or the reply. The member to whom the question was addressed shall then have the right to conclude the debate.

16. MINUTES

16.1 Signing the minutes

The Speaker will sign the minutes of the proceedings at the next suitable meeting. The Speaker 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, which shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Speaker shall sign the minutes.

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting which is not an extraordinary meeting will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

16.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Speaker put them.

17. MINUTES OF BOARDS AND COMMITTEES AND REPORTS OF CABINET AND CHAIRMEN AT COUNCIL MEETING

17.1 The Minutes of the Scrutiny ~~Leadership Board Committees~~ and other Committees shall be submitted for adoption and information to the Council and shall distinguish between decisions made using delegated powers and those made by the appropriate body using referred powers. Decisions in the former case shall be preceded by the word 'RESOLVED' and in the latter case by the word 'RECOMMENDED'.

17.2 The person presenting the minutes shall submit the minutes of the Scrutiny ~~Leadership Board or Committee/Board Committee~~ as appropriate for approval by the Council, and shall formally move their adoption.

17.3 Reports from the Cabinet containing recommendations shall be submitted for adoption by the Council, and shall formally be moved by the Leader or a member of the Cabinet.

17.4 Following the seconding of the motion, the number of each minute/report which contains a recommendation or recommendations, will be called out in turn by the Speaker. When a minute/report containing a recommendation or recommendations is called, a member may indicate that he/she wishes to speak.

17.5 A member may move an amendment, comment, question or make an observation relating to the minute/report. A member wishing to move an amendment must do so at the commencement of his/her speech.

17.6 No comment, observation or question by members on any resolved minutes shall be allowed, except by the discretion of the Speaker,

17.7 There shall be no amendment to resolved minutes.

17.8 At the conclusion of all questions on and debate on amendments of the Minutes of a Board, Committee or Commission or amendments to reports of the Cabinet, the Speaker

shall put it to the Council Meeting that the Minutes (or the Minutes as amended as the case may be) or reports shall be adopted.

- 17.9 Members of the Cabinet, the Chairmen of the Scrutiny ~~Leadership Board Committees~~ and other Boards or Committees having given nine working days notice to the Head of Audit & Democracy shall bring to the attention of the Council such matters in respect of which notice has been given after which a debate may follow on matters within that report only. At the conclusion of the debate the Cabinet Member or Chairman of the appropriate Committee shall have the right of final response.

17.10 Notwithstanding Rule 14 the Cabinet has the power to request the Council to reverse a decision within five days of that decision being made.

18. 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. (Local Government Act 1972, Schedule 12, paragraph (40)).

19. 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 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to speak

When a member speaks at full Council they must stand and address the meeting through the Speaker, except where the member or members may be physically impaired from so doing. If more than one member stands, the Speaker will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

20.2 Speaker standing

When the Speaker indicates by standing or some other means during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

20.3 Member not to be heard further

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

Part 4 – Rules of Procedure

Section 2 – Access to Information Procedure Rules

The requirements for access to information in respect of decision-taking by the Council are very largely set out in statute and regulations. This section provides a summary of those statutory provisions together with a more detailed statement where the Council has decided to grant rights of access over and above the statutory provision.

1. Council Functions

All decisions in respect of Council functions are regulated by **Sections 100A to 100K of the Local Government Act 1972**.

The Council has made no supplemental provisions for access to information in respect of Council functions.

2. Cabinet Functions

All decisions in respect of Cabinet functions are regulated by the **Local Authorities (Cabinet Arrangements) (England) Regulations 2000**, as follows:

a) Advance notice of forthcoming decisions

- i) The requirement for advance notice of forthcoming Cabinet decisions apply to “Key Decisions”, which are defined by Regulation 8 to comprise any Cabinet decision which is likely to:
 - result in significant expenditure or significant savings, or
 - be significant in terms of its effects on two or more wards or electoral divisions within the authority’s area.
- ii) The Leader is required, at least 10 working days before the start of each calendar month, to prepare a Forward Plan which sets out details (as set out in Regulation 14) of any matters which he/she considers are likely to be the subject of a Key Decision within the next 4 calendar months.
- iii) The Leader shall instruct that the authority shall advertise annually the existence and availability of the Forward Plan
- iv) Where a Key Decision is required to be taken which has not been publicised in the Forward Plan, the decision-taker must give at least 5 working days notice of the proposed decision and a copy of any report to the Chairman of the ~~Scrutiny Leadership Board~~ appropriate Scrutiny Committee. Where the urgency of the decision is such that even that notice cannot be given, the decision-taker must obtain the agreement of the Chairman of the ~~Scrutiny Leadership Board~~ Committee (or in their absence the Speaker or Deputy Speaker of the Council) that the decision does need to be taken as a matter of such urgency.

b) The decision-making process

- i) Where a decision is to be made by the Cabinet (as a body):

the agenda for the meeting and every public, and non-exempt report shall be available for inspection as soon as they are made available to members of the

Part 4 – Rules of Procedure

Section 3 – Policy Framework and Budget 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 Council is responsible for the adoption of the budget and policy framework. The process by which the budget and policy framework shall be developed is:

- (a) Before the end of December each year the Cabinet will publicise its policy and budget proposals, together with a timetable for taking final proposals to the Council and arrangements for consultation. There will be a minimum 4 week consultation period.
- (b) During the consultation period:
 - (i) the Cabinet's proposals shall be referred to the ~~Value for Money Scrutiny Group~~ Scrutiny Committee for an Efficient and Community Focused Council for further consideration.
 - (ii) a range of consultation activities will take place with the community and stakeholders so that they can feed their views into the process
 - (iii) the Cabinet's proposals shall be available to Opposition Groups for consideration. It is the responsibility of Opposition Groups to plan their own work programme so that they are able to respond to the proposals within the consultation period.
- (c) Any budget proposals proposed by Opposition Groups must be presented to the Scrutiny Committee for an Efficient and Community Focused Council ~~Value for Money Scrutiny Group~~ prior to Cabinet presenting their proposals to Full Council. This may be during the consultation period.
- (d) Having considered the results of consultation and any reports of the ~~Value for Money Scrutiny Group~~ Scrutiny Committee for an Efficient and Community Focused Council and Opposition Groups, the Cabinet, if it considers it appropriate, may amend its proposals
- (e) The Cabinet will submit its final proposals to Council before the 11th March each year for adoption. It will also report to Council on how it has taken into account consultation feedback.
- (e) The Council will consider the proposals of the Cabinet apply in accordance with its normal rules of procedure.
- (f) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately
- (g) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy

framework which may be undertaken by the Cabinet. Any other changes to the budget and policy framework are reserved to the Council.

3. Decisions outside the policy framework or budget

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

4. Urgent decisions outside policy framework or budget

- (a) The Cabinet, individual members of the Cabinet, and any officers, committees of the Council, area committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - i) if it is not practical to convene a quorate meeting of the full Council; and
 - ii) if the Chairman of the appropriate ~~Scrutiny Leadership Board Committee~~ agrees that the decision needs to be taken as a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the Scrutiny ~~Leadership Board's 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 Chairman of the Scrutiny ~~Leadership Board Committee~~, the consent of the Mayor-Speaker, and in the absence of both, the Deputy Mayor-Speaker will be sufficient.

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

5. Virement

Virement between budget heads is an integral and important feature of budgetary control. It allows service providers to adapt to service changes within Council policy. The details of virement can be found in Financial Procedures Rules in Part 4 of the Constitution.

6. Call-in of decisions outside the policy framework or budget

- (a) Where a 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 Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be submitted 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 Financial Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Chief Financial 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 Financial 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 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. The Council shall meet within 10 working days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial 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 regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
 - Or**
 - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1 Who presides?

The Leader will preside at any meeting of the Cabinet at which he/she is present, and in his/her absence the Deputy Leader will preside. In the absence of both the Leader and Deputy Leader the members present may appoint another member of the Cabinet to preside.

2.2 Who may attend?

Members of the public (which may include non-Cabinet members of the Council and officers at the discretion of the Cabinet) may attend all meetings of the Cabinet except when exempt or confidential information is being considered where the press and public (including non-Cabinet members of the Council), may be excluded by resolution of the Cabinet in accordance with the Access to Information Rules contained in Part 4 of this constitution.

2.3 What business?

Meetings of the Cabinet will include the following business:

- i) consideration of the minutes of the last meeting;
- ii) apologies for absence
- iii) declarations of interest, if any;
- iv) matters referred to the Cabinet (whether by the Scrutiny ~~Leadership Board 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 Policy Framework and Budget Procedure Rules set out in Part 4 of this Constitution;
- v) consideration of reports from individual members of the Cabinet;
- vi) consideration of reports from ~~the~~ Scrutiny ~~Leadership Board Committee~~.
- vii) Forward Plan;
- viii) reports of Statutory Officers; and
- ix) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions.

Items (iv) – (ix) shall require written reports except in cases of urgency where it is impractical to do so.

2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the policy framework and budget should contain details of the nature and extent of consultation undertaken with stakeholders and the Scrutiny Leadership Board. 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.

2.5 Who can put items on the Cabinet agenda?

- (a) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. The proper officer will comply, subject to the agreement of the Leader.
- (b) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Scrutiny ~~Leadership Board Committees~~ and Scrutiny Assembly. However the number of items per Cabinet meeting, will have regard to the amount of business on the agenda.
- (c) Any resolution of the Council which is required to be considered by the Cabinet will be so considered within fifteen working days of the date of the Council resolution, or at the next scheduled meeting of the Cabinet.
- (d) The Chief Executive, Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where the Head of Paid Service or Chief Financial Officer or Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.6 Timescales

In considering matters in relation to budgetary issues the Cabinet will have due regard to any appropriate timescale within which the budget has to be approved by the Council. By way of example the timespan required to deal with this will include consultation with partners and other external agencies plus reference to ~~the Value for Money Scrutiny Group.~~
~~Scrutiny Committee for an Efficient and Community Focused Council~~

2.7 Key Decisions

Key Decisions shall only be taken provided that the matter in question is contained within the Forward Plan, or if not in the Forward Plan, after giving five working days notice, together with a report to the Chairman of the ~~appropriate~~ Scrutiny ~~Leadership Board Committee~~ -and with the consent of the Chairman of the ~~relevant~~ Scrutiny ~~Leadership Board Committee~~.

2.8 Recording of Decisions

All decisions including Key Decisions are to be made by a simple majority of these Members of the Cabinet present and voting, except for voting on appointments where two or more persons are nominated for any position in which case if there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

Following a meeting of the Cabinet at which a report (whether oral or in writing) has been received and at which a Cabinet decision has been made or a decision of a individual Cabinet member after consideration of a report, the proper officer shall ensure that a written record will be published

2.9 Officer Attendance

No decision will be made by the full Cabinet unless there is present at the meeting the senior officer responsible for the service or their representative and/or the Proper Officer for recording the meeting.

A written statement of the decision taken will be produced by the proper officer four working days following the Cabinet meeting or after the individual Cabinet member instructs the officer to do so.

2.10 Urgent Decisions and Call-in

Where an urgent decision has been taken by the Cabinet this should be recorded and this decision will not be subject to call-in (see Overview and Scrutiny Procedure Rules).

* **Chief Finance Officer Responsibilities (s151/s114) – these have been allocated to the Corporate Director: Resources and include:**

- provision of financial advice for service delivery, strategic planning and policy making across the authority;
- provision of advice on the optimum use of available resources on the management of capital and revenue budgets;
- provision of financial management information;
- preparation of statutory and other accounts, associated grant claims and supporting records;
- provision of an effective internal audit function and assistance to management in providing safe and efficient financial arrangements;
- provision of effective financial management systems and procedures
- provision of effective income collection and payments systems;
- advising on treasury, investment and cash-flow management; and
- advising on the safe custody of assets and insurance.
- Co-ordination of the corporate risk management systems

* **The Head of ~~Audit & Democracy Governance~~** has delegated responsibility under the Accounts and Audit Regulations 2003¹ to maintain an adequate and effective Internal Audit service and has direct responsibility for the operation and support of the Council's Scrutiny function. The Head of Audit & Democracy has the ability to report directly, without fear or favour, to any level within the organisation or to the External Auditor.

* **Corporate Directors** are responsible for ensuring that Heads of Service provide services that meet the Council's overall policy objectives. This includes ensuring compliance with Financial Regulations by Heads of Service in meeting such objectives.

* **The Corporate Director: Resources** is responsible for leading on corporate governance issues throughout the Council.

* **The Head of Finance** will act as deputy Section 151 Officer

* **Heads of Service** are responsible for ensuring the delivery of services by their respective Business Units. This includes ensuring compliance by Business Managers with Financial Regulations within their service areas.

* **Business Managers** are responsible for the day to day provision of services and the management of the associated budget. This includes ensuring that staff comply with Financial Regulations in performance of their duties.

Note: 'Business Managers' also includes managers and/or team leaders with budget and staff responsibilities.

2.3 Financial Training

The Chief Financial Officer should assess the financial skills required by members of the Cabinet, and Corporate Management Team should commit to develop the specific skills to enable their roles to be carried out effectively.

The Head of Finance should through senior finance staff identify financial competencies for managers and members and provide adequate financial training to enable them to undertake their roles effectively and understand the financial requirements of the Constitution and associated financial policies and procedures.

¹ As updated by the Accounts and Audit (Amendment)(England) Regulations 2006 (SI2006/564)

before introducing or amending any books, forms, records, administrative procedures or computerised systems used in conjunction with accounting for cash, income, expenditure, stores and financial transactions generally.

- 4.4 Corporate Directors and Heads of Service must maintain through their Officers full and accurate records as agreed with the Head of Finance to ensure the availability of all financial, costing and statistical and other information as may be required to fully and accurately maintain the accounts of the Council, and report on its finances. This includes the correct coding of expenditure in line with the CIPFA standard classifications. All accounting records will be maintained in accordance with current CIPFA Codes of Practice,
- 4.5 Heads of Service are responsible for ensuring the completion and submission of Grant applications and financial returns. The Chief Finance Officer is entitled to such explanations or information as may be required prior to forwarding to the relevant government department or agency under his signature. No bid for external funding shall be submitted without approval from the relevant Corporate Director and Finance Manager.
- 4.6 Heads of Service are responsible for ensuring adequate records, financial and otherwise, have been maintained for all externally funded schemes subject to audit by the European Commission or grant awarding bodies

CONTACT: Corporate Finance Manager

5. Financial Management and Control – Revenue

5.1 Background

- 5.1.1 The Council is responsible for adopting the authority's Constitution and Code of Conduct and for determining the budget and policy framework within which the Cabinet operates. It is also responsible for setting and monitoring compliance with the authority's overall framework of accountability and control via the scrutiny process. The framework is set out in the constitution.
- 5.1.2 This section of the regulations deals with the preparation and approval of budgets, budgetary control and variations from budget provision. It applies to all areas of the Council's activities except schools.
- 5.1.3 No expenditure is to be incurred or reduction in income authorised unless covered by these regulations.

5.2 Preparation and Approval of Budget

- 5.2.1 The Council will approve the overall spending plans of the Council.
- 5.2.2 The form of revenue estimates shall be determined by the Head of Finance in consultation with Heads of Service within the general guidelines of the Cabinet and relevant professional requirements. Estimates shall be prepared annually before the start of the financial year and revised during the course of the year.
- 5.2.3 Prior to the commencement of each financial year each Business Manager should prepare a Business Plan setting out the Business Unit's aims and objectives and expenditure and income projections within corporately agreed allocations of resources. These should be agreed with the relevant Corporate Director and Head of Service.

APPENDIX 11

PROCEDURE FOR URGENT DECISIONS UNDER PARAGRAPH 4 OF THE BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

This procedure covers decisions contrary to the policy framework and contrary to or not wholly in accordance with the budget.

Urgent decisions outside the budget or policy framework

- (a) The Cabinet, individual members of the Cabinet, and any Officers, committees of the Council, area committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- i) if it is not practical to convene a quorate meeting of the full Council and
 - ii) if the Chairman of the appropriate Scrutiny ~~Leadership Board Committee~~ agrees that the decision needs to be taken as a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the appropriate Scrutiny ~~Leadership Board Committee~~ consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the appropriate Scrutiny ~~Leadership Board Committee~~ the consent of the Speaker, and in the absence of both, the Deputy Speaker will be sufficient.

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

13. To review the Council's Treasury Management arrangements including Treasury policies, procedures and the management of the associated risks and make recommendations to the Cabinet as appropriate.

Statement of Accounts

14. Review and approve the Statement of Accounts, external auditor's opinion and reports on them to members and monitor management action in response to the issues raised by external audit.

Fraud & Corruption

15. To approve the Anti-Fraud and Corruption Policy for adoption by the Council, and to review it at least once every 2 years.
16. To approve the Speak Up Policy ('*whistle blowing*') for adoption by the Council, and to monitor its operation. This policy will be reviewed at least once every two years.

Complaints

Recognising that Complaints/Compliments are a Cabinet function, the Committee should:-

17. Review the Annual Complaints Report and seek assurances that the Council is improving in response to complaints raised.

General

18. The meetings will follow the principles of scrutiny, i.e. no party whip will be applied and a constructive, evidence based approach will be used.
19. To ensure that adequate training is received by the members of the committee on the areas covered by the terms of reference 1 – 16 above.
20. To ensure that any sensitive or confidential information obtained as a result of membership of the Committee is treated as confidential.
21. Annually review their effectiveness and their terms of reference.

Part 5 - Code and Protocols

Section 1 – Members Code of Conduct

Preamble – General Principles

Selflessness – Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

Personal Judgement – Members may take account of the view of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others – Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law

Leadership – Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Part 1 – General provisions

Introduction and interpretation

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (a).²
- (3) It is your responsibility to comply with the provisions of this Code.

² See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401)

(4) In this Code—

- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or a sub-committee of such a committee) where –

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee; and

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 5 – Codes and Protocols

Section 3 – Protocol on Member/Officer Relations

1. INTRODUCTION

- 1.1 The relationship between members and employees is an essential ingredient that goes into the successful working of the organisation. This relationship within the Council is characterised by mutual respect, informality and trust. Members and employees feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship, it is rather to help members and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of Human Resources
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for speaking up (whistle blowing).

2. ROLES OF MEMBERS AND EMPLOYEES

- 2.1 The respective roles of members and employees can be summarised as follows:

Members and employees are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Employees are responsible to the Council. Their job is to give advice to members and the Council, and to carry out the Council's work under the direction and control of the Council, the Cabinet, and relevant committees, boards, panels etc.

Mutual respect between Councillors and employees is essential to good local government

2.2 Members

Members have three main areas of responsibility: determining the policy of the Council and giving it political leadership, representing the Council externally, and acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day to day management of Council services.

2.3 Members of the Cabinet, Chairmen and Vice-Chairmen

Members of the Cabinet and Chairmen and Vice-Chairmen of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of members without those responsibilities, and this is recognised in the expectations they are entitled to have.

2.4 Opposition Members

As individual members of the Council, all members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of scrutiny and overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between employees,

Part 5 – Codes and Protocols

Section 4 – Protocol on Use of Substitutes

Explanatory Note

The protocol below applies to the use of substitutes at meetings of Committees, Boards, etc. except for the Standards Committee and Audit Committee, and Scrutiny ~~Leadership Board~~ Committees Call in meetings.

The Protocol

- 1.1 In accordance with the requirements of Council Procedure Rule 5.2, each political group shall be entitled to provide a pool of substitutes for each relevant Committee/ Board.
- 1.2 The lists of pools of substitutes (listed in order of preference i.e. first choice, second choice) shall be submitted to the Democratic Services Manager for retention and for updating on the instructions of the appropriate Group Leaders.
- 1.3 Any member of a Committee/Board where substitutes are permitted, if he/she is unable to attend a meeting of which he/she has been given notice is entitled to appoint a substitute for that meeting.
- 1.4 That member shall contact a member from the relevant named pool of substitutes, invite the member to attend the meeting as substitute and notify the Head of Audit & Democracy at least 1 hour before the start of the meeting of the intended substitute.
- 1.5 If the first choice substitute is not able to attend, then the Member will contact the remainder of members in order of preference from the named pool of substitutes and invite that member to attend the meeting. If all substitutes for a particular Group are unavailable then no substitute will attend.

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Part 6- Members' Remuneration Scheme

Explanatory Comment

The Members Remuneration Scheme set out below is as approved by the Council in September 2008. The Council received a report from an Independent Remuneration and Allowances Panel which recommended a new Remuneration Scheme for the Authority.

Remuneration Scheme

The Members Remuneration Scheme for 2008/09 provided for:-

- All Members to receive a basic allowance, currently £7,583
- The following positions attract a special responsibility allowance (in addition to the basic allowance).

Chairman of Cabinet/Leader	£22,903.00
Deputy Leader	£15,320.00
Cabinet Member	£10,800.00
Chairman of Scrutiny Management/Leadership Board Assembly	£10,237.00
Main Opposition Group Leader	£ 9,479.00
Chairmen of Scrutiny Committees Lead Scrutiny Members	£ 7,583.00
Chairman of Plans Board	£ 7,583.00
Chairman of Licensing Committee	£ 7,583.00
Chairman of Audit Committee	£ 7,583.00
Independent Chairman of Standards Committee	£ 7,583.00
Cabinet Assistants	£ 4,550.00
Speaker of Council	£ 2,511.00
Chairman of Appeals Committee	£ 2,275.00

- The scheme provides for travel, subsistence, childcare and dependant carers allowances to also be claimed by Members.
- It is a condition of the Scheme that a Member can receive no more than one Special Responsibility Allowance even if he/she occupies more than one position which had a Special Responsibility Allowance entitlement.
- The Scheme allows for an annual uprating of the Basic Allowance and Special Responsibility Allowances in line with the pay award for local authority employees. The annual uprating will be applied at the start of the Municipal Year and backdated to the start of the civic year if the pay award has not been formalised by the date of Annual Council.
- The Scheme is subject to analysis & review by the Independent Remuneration Panel. The Panel is required to meet and recommend a new scheme to the Council in 2012. **Local Authorities (Members Allowance)(England) Regulations 2003 (as amended)**
- The Mayor/Deputy Mayor are reimbursed expenses in accordance with **Sections 3 and 5 of the Local Government Act 1972**. The Mayor receives £7,005.00 and the Deputy Mayor £2,388.00

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Monitoring Officer – the Head of Legal Services is the Monitoring Officer.

Officer – an employee of the Authority

Ombudsman – the Local Government Ombudsman

Scrutiny ~~Leadership Board~~ Committee – Scrutinises the work of the Council and relevant partner organisations
~~oversees the scrutiny process~~

Proper Officer – the Officer with specific statutory responsibilities

Public Assembly Session – a meeting called by the Leader at which parties other than Councillors may participate in debate

Speaker – the Councillor elected by the Council to Chair meetings of the Council

Standards Hearing - a hearing of the Standards Committee

Statutory Officers – the Head of Paid Service, Monitoring Officer, Chief Finance Officer

The 1972 Act – the Local Government Act 1972

The 1985 Act – the Local Government Act 1985

The 1988 Act – the Local Government Finance Act 1988

The 1989 Act – the Local Government and Housing Act 1989

The 2000 Act – the Local Government Act 2000

GUIDANCE NOTE 1

These notes are produced to assist officers to understand the working of the Constitution. In particular this guidance note helps in the processes in relation to decision making.

1. Decision Making

- The principles of decision making are contained within Article 13.02 of the Constitution. This states that all decisions of the Council, its Committees (Boards), the Cabinet and those under delegated powers shall have regard to the following principles of good practice:-
 - Consideration of all options available;
 - Having regard to due consultation;
 - Consideration of professional advice from officers;
 - Clarity of aims and desired outcomes;
 - The action proposed must be proportionate to the desired outcome;
 - Having respect and regard for human rights;
 - Presumption for openness, transparency and accountability;
 - Only relevant matters taken into account;
 - Due weight to all material considerations (including opportunities and risks);
 - Proper procedures will be followed.
- When in relation to Cabinet matters, officers are required to forward plan reports and decisions carefully, particularly for the forthcoming four months.
- Authors of reports need to decide whether a report is legally required to Council (Board/Committees) or the Cabinet. This decision can be made after checking the Constitution and in particular the Committee Procedure Rules. A helpful “shortcut” is to refer to Part 3 “Responsibility for Council Functions” list which contains full details of functions which are the responsibility of the Council.
- If the issue is one for the Council as opposed to the Cabinet, then the next step is to ascertain whether responsibility has been delegated to a Board/Committee or to an officer. Again, reference should be made to the “Responsibility for Council Functions” list which identifies the responsible officer for any particular function and also details any onward delegation.
- If the issue for determination is not within the Council’s Functions list and is not a decision in relation to overall budget or policy matters then the decision making body is the Cabinet.
- Where the Cabinet is responsible for making a decision then consideration has to be given as to whether it is a key or non-key decision. (**see Guidance Note on Key Decisions**).
- Where it is a Key Decision, then this must be included in the Cabinet’s Forward Plan of Key Decisions before any decision can be taken. If it has been omitted from the Forward Plan then the Business Manager/report author must arrange for it to be included therein by contacting the Democratic Services Officer. (**This applies even when a Key Decision is to be taken by an officer under delegated powers**). In cases of urgency an urgency procedure exists – see Part 4, **Section 2** and Overview and Scrutiny Procedure Rules

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- Where a **non-key decision** is to be taken by the Cabinet then a report should be prepared by the Business Manager and forwarded to the appropriate Democratic Services Officer for inclusion on the Cabinet agenda.
- Officers need to identify both key and non-key decisions over the forthcoming four month period.

2. Structure of Reports

- Reports to the Council (its Boards/Committees) will continue in the existing format, as **report which must be used**.
- It is **imperative** that report authors allow sufficient time to obtain full financial and legal comment at **draft** stage. Failure to do so will result in items not being included on agendas.
- Cabinet reports will be drafted in the existing format but in addition the areas raised in Article 13.02 (see above) need to be included so that the Democratic Services Officer is able to make a full record of the decision, the reasons for the decision, together with details of alternative options considered to ensure compliance with legal requirements.

3. Access to Information – Exempt/Confidential Items

- To avoid identifying an exempt/confidential item the Forward Plan is concerned (in relation to a Key Decision by the Cabinet or a Key Decision to be taken by an officer) a decision in respect of what would be an exempt item can be entered in the Forward Plan by way of a general heading only, e.g. “Acquisition of Land in South Telford”.

4. Consultation

- The Constitution refers to the need to consult within the Council and externally at the commencement of the budget process etc. In general external consultation will be with stakeholder/partner organisations as appropriate.

Guidance on this can be obtained from Policy, Performance & Partnership

5. Scheme of Delegation

- The existing scheme of delegation has been ratified by full Council and is available on the website and intranet.

6. Decisions as to Council functions (Committees/Boards) outside of the policy and budget framework

- If the service Committee/Board wishes to make a decision which is not in accordance with approved policy or within budget then this item must be referred to full Council for decision.
- The Cabinet can only make decisions which are within the confirmed policy and budget framework approved by the Council.

7. Recording of Decisions

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Issue C Revision 0

March 2010

- Decisions taken by the Council, its Committees and Boards, and the Scrutiny ~~Leadership Board-Committees~~ will be recorded by the means of minutes of each meeting.
- All decisions taken by the Cabinet and all Key Decisions taken by officers exercising delegated authority are legally required to be recorded and published.

DECISION NOTICES

The Constitution requires all decisions by the Cabinet and all Key Decisions taken by officers exercising delegated powers to be published. In respect of Cabinet decisions combined Decision Notices/Minutes are produced and for officer Key Decisions Decision Notices (hereinafter both are referred to as 'Decision Notices') are produced by Audit & Democracy.

- The regulations require a minimum amount of information to be contained in a Decision Notice i.e. record of decision, reasons for decision, details of options considered, record of any conflict of interest, and record of any dispensation granted by the Standards Committee.
- Publication of a Decision Notice must take place within four working days of the decision being taken.

Following publication of a Decision Notice, Members can invoke the "Call-In" process if they so wish (see [Part 4, Section 5 Overview & Scrutiny Procedure Rules](#)). It is, therefore, imperative that all Members and the statutory co-optees (in relation to Education matters), receive Decision Notices within the required timescale.

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- Decision Notices in respect of officer Key Decisions on matters that are exempt/confidential will not be available for public inspection.

All Decision Notices will be co-ordinated by Audit & Democracy. Officers making Key Decisions must advise Audit & Democracy of any Key Decisions they wish to make in order that Decision Notices are published within the requisite timescale

Public Access

- Minimum requirement: A copy will be available at the Council's main offices (Civic Offices).
- Decision Notices will be on the Council's web site.

Access for Members

- Minimum requirement: Decision Notices will be e-mailed to all Members within four working days of the decision(s) being taken.

