

Part 2 – Council Procedure and Rules

1. Types of Council Meeting

1.1 There may be five types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings
- (d) State of borough debate
- (e) Themed Council meetings

1.2 These meetings will be conducted in accordance with the procedure Rules set out in this part of the Constitution:

2. Annual Meeting of the Council

Time and Place

2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.

2.2 Subject to Rule 2.1 above, the Annual Meeting shall be held at such date, time and place as the Council may resolve or, in default of such resolution, as may be determined by the Chief Executive and notified in writing to all Members.

2.3 The Annual Meeting of the Council shall take place at 7.00 pm in the Council Offices at Grays unless otherwise determined by Council.

Business

2.4 The Annual Meeting will:

- (a) Elect a person to preside if the Mayor and Deputy Mayor are not present
- (b) Receive any apologies for absence from Members
- (c) Approve correct minutes
- (d) Elect a Mayor for the ensuing municipal year
- (e) Consider urgent business
- (f) Elect a Deputy Mayor for the ensuing municipal year
- (g) Receive any declarations of interest from Members and Officers

- (h) Elect a Leader of the Council in any year in which the Leader's term of office expires [see Note below]
- (i) Receive any announcements from the Mayor or the Leader. An announcement being a formal communication of items of news or matters of public interest to the Council and should not take the form of a political statement.
- (j) Establish the following and their size and terms of reference:
 - (i) at least one Overview and Scrutiny Committee for the purposes of section 21 of the Local Government Act 2000, and determine which Overview and Scrutiny Committee or Committees shall have responsibility for Crime and Disorder, for Education, and for Health
 - (ii) a Committee for the purposes of the Licensing Act 2003
 - (iii) Health and Wellbeing Board
 - (iv) such other Committees as may be necessary for the proper discharge of the functions of the Council
- (k) Note the allocation of seats on Committees and Sub-Committees to members of political groups and those seats to be filled by Members who are not in any political group, appoint Members to those allocated Committee seats in accordance with the nominations of the political group Leaders, and appoint Members to the remaining Committee seats from among those Members who are not in any political group
- (l) Appoint any co-opted Members to the Standards and Audit and to any Overview and Scrutiny Committees, and to other Committees as appropriate
- (m) Determine to which Committees substitute Members may be appointed and appoint substitute Members in accordance with the nominations of political group Leaders
- (n) Appoint such Chairs and Vice-Chairs of Committees as it falls to Council to appoint
- (o) Receive nominations for, and make appointments to, those outside bodies to which the Council is entitled to appoint except where that right of appointment is exercisable only by the Leader / Cabinet
- (p) Agree the date, time and place of ordinary meetings of Council for the coming municipal year
- (q) Consider any business set out in the notice convening the meeting

Note: Rule 2.4 (h) above will apply only at annual meeting following an election, or following the removal or death or incapacity or resignation of the Leader.

Order of Business

- 2.5 The order of business at the Annual Meeting may be varied, except in respect of Rules 2.4 (a) to (g).

3. Ordinary Meetings

Time and Place

- 3.1 Ordinary meetings of the Council will take place at such date time and place as may be determined by Council.
- 3.2 The ~~Chief Executive Mayor or Deputy Mayor (if the Mayor is not available)~~ may cancel or postpone an ordinary meeting prior to the issue of public notice of the meeting where, after consultation with the ~~Mayor or Deputy Mayor Chief Executive~~, he/she considers that there is insufficient business to transact or where an event occurs which he/she considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the ~~Chief Executive Mayor or Deputy Mayor (if the Mayor is not available)~~, after consultation with the ~~Mayor or Deputy Mayor Chief Executive~~, may postpone an ordinary meeting and hold the meeting on a date to be agreed with the Mayor or Deputy Mayor and after consultation with Group Leaders.
- 3.3 All ordinary meetings of the Council shall take place at 7.00 pm in the Council Offices at Grays unless otherwise determined by Council.

Business

- 3.4 Business at ordinary meetings will be to:
- (a) Appoint a person to preside if neither the Mayor nor the Deputy Mayor is present or able to act
 - (b) Receive any apologies for absence from Members
 - (c) Approve as a correct record the minutes of the last meeting
 - (d) Consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency
 - (e) Receive any declarations of interest from Members
 - (f) Receive any announcements from or on behalf of the Mayor or the Leader. An announcement being a formal communication of items of news or matters of public interest to the Council.
 - (g) Answer questions from members of the public
 - (h) Receive petitions from Members and from members of the public in accordance with the authority's Petition Scheme and Rule 14 below
 - (i) Make any appointments that fall to be made to Committees, Outside Bodies, Statutory and Other Panels

- (j) Deal with any business deferred from the last Council meeting
- (k) Receive any reports from the Overview and Scrutiny Committees, the Standards and Audit Committee, or other Committees of the Council
- ~~(l) Receive a report from the Thurrock Youth Cabinet at least annually~~
- ~~(m)(l)~~ Receive reports from the Statutory Officers
- ~~(n)(m)~~ Receive reports from the Cabinet or from Members of the Cabinet
- ~~(e)(n)~~ Receive any reports from the Chairs of Overview and Scrutiny committees
- ~~(p)(o)~~ Answer questions received from Members in the order in which they were received
- ~~(q)(p)~~ Receive reports from Members and Officers attending as the authority's representatives on outside bodies about the business of joint arrangements, boards and partnership bodies and external organisations
- ~~(r)(q)~~ Receive for information the minutes of Committees
- ~~(r)~~ Consider motions from Members in the order in which they were received

~~(s)3.5~~ At the first ordinary meeting of the municipal year, an 'Opening of the Municipal Year' debate will be tabled. This item will last for a maximum of 1 hour and will outline the administration's plans for the upcoming municipal year. The Leader will have 10 minutes to introduce the item. There will be 50 minutes for debate, which will be managed by the Mayor.

Order of Business

~~3.53.6~~ Where the Monitoring Officer considers that the report or consideration of any item or items of business is likely to disclose confidential or exempt information, he/she may group any such items together on the agenda for convenience.

~~3.63.7~~ The Mayor may vary the above order of business at an ordinary meeting of the Council, except in respect of Rules 3.4 (a) to (e).

External speakers

~~3.73.8~~ Should he/she consider it conducive to or likely to facilitate the consideration of any item of Council business, the Mayor may invite such speakers to address the meeting of the Council as he/she considers appropriate. All Members will be given proper notice of the speaker's invitation and where any opportunities arise, and are appropriate, the facility to lodge, with notice, written questions to the speaker.

~~Reports of Cabinet Portfolio Holders~~

~~3.8~~ ~~In accordance with a timetable to be agreed by the Leader of the Council, the Cabinet Portfolio Holders shall report to full Council on the progress or otherwise of their respective roles and responsibilities as follows:~~

- ~~(a) — Up to two Members of the Cabinet will submit written reports to each Council meeting which should be circulated with the main agenda for the Council meeting.~~
- ~~(b) — The time allowed to introduce the report and receive questions on each report shall, unless otherwise agreed by the Council, not exceed 20 minutes, during which time the Cabinet Member will have up to 5 minutes to introduce the report, all Members will be able to seek to make contributions and ask questions on the report, after which the Cabinet Members will have up to 2 minutes to sum up. The corresponding member of the Opposition will have the right to ask the relevant Cabinet Portfolio Holder the first three questions on their annual report.~~

~~Urgent Cabinet Portfolio Holder Reports~~

- ~~3.9 — At the discretion of the Mayor and in consultation with Group Leaders, one further Member of the Executive / Cabinet may make a report to each Council meeting in respect of an item which is an emergency, urgent, or important in respect of their Portfolio.~~
- ~~3.10 — Time allowed unless otherwise agreed will be as in Rule 3.8(b) above. A written report will be provided unless impracticable.~~
- ~~3.11 — In the event that this procedure is requested but for whatever reason no report is made, the Mayor will set out the request and reason for non-inclusion in the Agenda.~~

4. Extraordinary Meetings

Calling extraordinary meetings

- 4.1 Those listed below may require the Proper Officer (who for this purpose shall be the Chief Executive) to call Council meetings in addition to ordinary meetings:
- (a) The Council by resolution
 - (b) The Mayor
 - (c) A Statutory Officer of the authority
 - (d) Any five Members may together call the meeting and the Chief Executive shall make arrangements accordingly provided they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Mayor and he/she has refused to call a meeting or has failed within seven days of the presentation of the requisition to call a meeting.
- 4.2 Upon receipt of such requirement, the Chief Executive shall arrange a meeting of Council to be held within 20 working days of receipt by her/him of the request.

Time and Place

- 4.3 All Extraordinary Meetings of the Council shall take place at 7.00 pm in the Council Offices at Grays unless otherwise determined by Council.

Business

4.4 Business at extraordinary meetings of the Council shall be restricted to the following:

- (a) To appoint a Member to preside at the meeting if neither the Mayor nor the Deputy Mayor are present and able to preside
- (b) To receive apologies for absence from Members
- (c) To receive any declarations of interest from Members and Officers
- (d) To consider any business set out in the notice convening the meeting
- (e) To consider any matter which, by reason of special circumstances to be specified in the minutes of the meeting, the Mayor considers should be considered at the meeting as a matter of urgency.

Order of Business

4.5 Where the Monitoring Officer considers that the report or consideration of any item or items of business is likely to disclose confidential or exempt information, he/she may group any such items together on the agenda for convenience.

4.6 The Mayor may vary the above order of business at an ordinary meeting of the Council, except in respect of Rule 4.4 (a) to (c).

5. State of Thurrock Debate

5.1 Subject to the Council's approval the Leader may call in consultation with the Opposition Leader a state of the borough debate annually on a date and in a form to be agreed with the Mayor.

5.2 The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement. This may include holding workshops and other events prior to or during the state of the borough debate.

5.3 The debate will be Chaired by the Mayor.

5.4 The results of the debate will be:

- (a) disseminated as widely as practicable within the community and the agencies and organisations in the area, and
- (b) considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year

6. Themed Council Meetings

6.1 In addition to approving a programme of ordinary meetings of the Council for the year the Council, at its annual meeting, may consider whether to hold a meeting on a particular topic on a date to be agreed.

- 6.2 The meeting shall take the form of a debate which may include provision for the Council to establish a Committee of all the Members of the Council for the purposes of the debate and, subject to the Council's agreement, for other individuals/organisations to contribute at the meeting.
- 6.3 The debate will be chaired by the Mayor.
- 6.4 The results of any debate by a Committee of the Council consisting of all Members of the Council may, at its conclusion, be considered by the Council at its resumed meeting as a recommendation of a Committee in accordance with the Council Procedure Rules.

7. Notice of Summons and Cancellation of Meetings

- 7.1 The Chief Executive will give notice to the public of the date, time and place of any meeting in accordance with the Access to Information Rules.
- 7.2 At least five clear days before a meeting, the Chief Executive 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 or such other address as the Member shall have notified the Chief Executive in writing as the address to which he/she has notified the Chief Executive that he/she wishes summonses to be sent. 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. Where a meeting has been called by Members under Rule 4.1 (d), the notice of the meeting shall be signed by those Members.

NB. The period of "five clear days", excludes any Saturday, Sunday, Bank Holiday, Christmas Day or Good Friday, the day the agenda is sent to the Members and the day of the meeting.

- 7.3 The ~~Chief Executive-Mayor, in consultation with the Chief Executive,~~ may cancel any meeting of Council by written notification to every Member and public notice in accordance with Rule 3.2.

8. Person Presiding

- 8.1 In this procedure, reference to the Mayor shall include reference to the person presiding at the meeting or part of the meeting where the Mayor, and/or the Deputy Mayor, is absent or unable to act, and the person presiding shall have all the powers of the Mayor for the purpose of the conduct of the meeting or item of business.
- 8.2 This Rule applies when neither the Mayor nor the Deputy Mayor are present or able to act in respect of any meeting or particular item of business, and it is necessary to elect a person to preside in their absence.
- 8.3 The Chief Executive or in his/her absence an Officer on behalf of the Chief Executive shall exercise the powers of the Mayor in respect of the election of a Member to preside (but shall not have a first or casting vote) and shall invite nominations from Members and conduct an election for a person to preside at the meeting or in respect of the particular item, as necessary.

- 8.4 Where there is an equality of votes on such election, the Chief Executive or his/her representative may adjourn the meeting for up to 15 minutes. If after such adjournment, there is still an equality of votes, the matter shall be determined by the drawing of lots.

9. Quorum

- 9.1 The quorum of a meeting will be one third of the number of Members of the Council (i.e. 17, where there are no vacancies amongst the Members).
- 9.2 If, once a meeting has started, the Mayor is aware that a quorum may not be present, he/she shall count the number of Members present and, if a quorum is not present, declare there is not a quorum present. The Mayor shall then adjourn the meeting for not more than 15 minutes to secure the attendance of a quorum or adjourn the meeting to a date, time and place determined by the Mayor. If the Mayor does adjourn the meeting for a maximum of 15 minutes, and at the expiry of that time a quorum is still not present, he/she shall adjourn the meeting to a date, time and place determined by the Mayor.

10. Record of Attendance

- 10.1 All Members present during the whole or any part of a meeting must sign their names on the attendance sheet provided before the conclusion of the meeting.

11. Duration of Meeting

Termination of Meetings

- 11.1 If the business of the meeting has not been concluded by ~~two and a half~~ three hours after its start, the Mayor must interrupt the meeting. The Member speaking must immediately sit down and the Mayor will then immediately and without debate take a vote on the item under discussion (including any amendment) and shall then dispose of the remaining business in accordance with Rule 11.2 below.

Disposal of remaining business

- 11.2 Subject to Rule 11.3 below, if there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without Debate.
- 11.3 Where a notice of motion submitted under Rule 15 falls to be dealt with under Rule 11.2, the Member giving the notice may either:
- (a) speak to the motion for not more than three minutes before the motion is put by the Mayor without Debate; or
 - (b) require that the motion is deferred to the next available meeting and dealt with as business deferred from the previous meeting
- 11.4 During the process set out in Rule 11.2, the only motions which may be moved are:
- (a) that a matter be delegated or referred to an appropriate body or individual for decision or report;

- (b) that a matter be deferred to the next meeting;
- (c) to move a motion that may be moved during debate, under Rule 19.23

11.5 Voting shall be in accordance with these Procedure Rules including those relating to recorded votes.

11.6 When all the other motions or recommendations have been dealt with, the Mayor may, at his/her absolute discretion, allow a further fifteen minutes to be added to the meeting to discuss the minutes of Committees and take questions from Members on them. This extra period of time may not be used for any other purpose.

Close of the meeting

11.7 When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

12. Interests of Members and Officers in matters under consideration

Declaration of Interests – Members

12.1 Members must declare in accordance with the Members' Code of Conduct any non-pecuniary, non disclosable pecuniary and any disclosable pecuniary interest which they have in any matter which is included in the agenda for the meeting, in accordance with the Members' Code of Conduct and at the item of business on the agenda relating to the declaration of Members' interests.

12.2 When declaring an interest Members must also disclose the nature of that interest.

12.3 In addition, if during the consideration of any matter, a Member realises that he/she has an interest which he/she should have declared in the matter under consideration, he/she shall declare that interest immediately. Where a Member arrives after the start of the meeting, the Member must make such declarations of interest as soon as possible after arrival and the Mayor shall permit them to do so at the earliest opportunity.

Withdrawal from the meeting for Disclosable Pecuniary Interests

12.4 Where a Member has a disclosable pecuniary interest in any matter, he/she must withdraw from the meeting, including withdrawal from the public gallery, for the duration of the consideration of the matter except where the Member has been granted a dispensation to speak and / or vote in accordance with the Members Code of Conduct.

13. Minutes

Signing the minutes

13.1 The Mayor will, at the next suitable meeting, 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. If approved by the meeting, the Mayor will then sign the minutes.

No requirement to sign minutes of previous meeting at extraordinary meeting

- 13.2 This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next following meeting (being a meeting called otherwise than under paragraph 3 of schedule 12 of the Local Government Act 1972) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

Form of Minutes

- 13.3 Minutes of a meeting shall record all motions and amendments in the exact form in which the Mayor put them to the meeting.

14. Petitions and Questions

Petitions

- 14.1 In accordance with the Council's Petition Scheme a petition organiser may request the opportunity to present their petition to the Council.
- 14.2 A petition must:
- (a) identify and be accompanied by contact details, including an address, for the petition organiser
 - (b) contain the name, a valid address and the signature of least 10 local government electors for the administrative area of Thurrock who support the petition. If a petition does not contain the signatures of 10 local government electors in Thurrock, proof of residence in the borough may be checked through Council Tax records, as a secondary measure.
 - (c) include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
 - (d) relate to a matter for which the authority has responsibility and which affects the authority or its area
 - (e) not, in the opinion of the Monitoring Officer, be trivial, defamatory, offensive, be substantially the same as a petition which has been considered under these Rules within the previous 12 months, name or clearly identify an employee of the authority, or involve the disclosure of confidential or exempt information.
- 14.3 A petition may only be presented to Council when notice has been submitted to the Monitoring Officer no later than 12.00 noon on the working day before that meeting of the Council.
- 14.4 Petitions may be presented to the Council in accordance with the authority's Petition Scheme by the petition organiser, by another signatory of the petition authorised by the petition organiser or by a Member on behalf of the petition organiser.

14.5 Any Member or member of the public presenting a petition shall be entitled to address the Council on the matter which is the subject of the petition for up to ~~two~~ three-minutes. Unless the petition relates to a matter which is to be determined by Council itself, it shall then be referred to the Cabinet, Cabinet Member or Committee, as appropriate, without debate.

~~14.5~~14.6 The relevant Portfolio Holder or Committee Chair will have the opportunity to speak for up to 1 minute to acknowledge the petition.

Public Questions

~~14.6~~14.7 Any resident of the authority's area may submit a question addressed to the Leader, a Member of the Cabinet, a Chair of any Committee or Sub-Committee, or a Member appointed to represent the Council on a Joint Committee by delivering it in writing to the Monitoring Officer, to be received by Democratic Services by 5.00 p.m. at least six working days prior to a meeting of Council (for example, as the Council usually meets on a Wednesday, the deadline for receipt of a question will be 5.00 p.m. on the Monday the week before the meeting is due to be held). The question must relate to a matter which affects the authority or residents of the authority's area and in relation to which the authority has powers, and must name the individual to whom it is addressed. A question must be concise and clearly worded and must not extend into a statement. The question must relate to a single proposition and may not contain more than one part. No member of the public may submit more than one question in total for any one meeting of Council or ask or submit questions on behalf of another member of the public.

~~14.7~~14.8 The Monitoring Officer shall copy the question to the person to whom it is addressed and place it on the agenda for the next meeting of Council unless, in his/her opinion:

- (a) the request does not comply with the requirements of Rule 14.6 above
- (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, names or clearly identifies an employee of the authority, or otherwise infringes the proper conduct of local government
- (c) the question is substantially the same as a question which has been previously been received and answered within a 3 month period, and there has been no significant and relevant change of circumstances since the previous question was answered; or
- (d) the question discloses, or the reply is likely to disclose, confidential or exempt information

~~14.8~~14.9 The Monitoring Officer shall put the questions on the agenda in the order that they have been received.

~~14.9~~14.10 Where the questioner is present, the person to whom the question was addressed shall then provide a verbal answer to the question (which may include a more detailed answer in writing). Where the person who submitted the question is not present, the person to whom the question was addressed may provide a written response as an alternative to a verbal response.

~~14.10~~14.11 Where the person who submitted the question is present, after the initial answer, they may ask one supplementary question arising directly out of the initial question or answer which must not extend into a statement, without notice, and the person who answered the initial question shall respond to the supplementary question.

~~14.11~~14.12 The time limit for all questions under this Rule at any meeting shall be up to 30 minutes. Where a question is not dealt with at the meeting, the person to whom the question is addressed shall provide a written answer as soon as practicable, but no later than, the next meeting.

Members' Questions

Questions without notice

~~14.12~~14.13 Any Member may ask the Leader, a Cabinet Member or the Chair of a Committee any question without notice upon an item of report or recommendation of the Cabinet, Cabinet Member or Committee concerned, immediately following the presentation of that matter.

Questions on Notice

~~14.13~~14.14 Any Member may submit a maximum of 2 questions (except for the Leader of the Opposition who can ask 2 questions of the Leader and a further 2 in total of other Members) for the next ordinary meeting of Council addressed to the Leader, a Member of the Cabinet, a Chair of any Committee or Sub-Committee, or a Member appointed to represent the Council on a Joint Committee by delivering them in writing to the Monitoring Officer, to be received by Democratic Services by 5.00 p.m. at least 6 working days prior to a meeting of Council (for example, as the Council usually meets on a Wednesday, the deadline for receipt of questions will be 5.00 p.m. on the Monday the week before the meeting is due to be held). The question must relate to a matter which affects the authority or residents of the authority's area and in relation to which the authority has powers, and must name the individual to whom it is addressed. A question must relate to a single proposition and may not contain more than one part. No Member may ask or submit questions on behalf of another Member.

~~14.14~~14.15 The Monitoring Officer shall copy the question to the Member to whom it is addressed and place it on the agenda for the next meeting of Council unless, in his/her opinion:

- (a) the request does not comply with the requirements of Rule 14.13 above
- (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government
- (c) the question is substantially the same as a question which has been previously been received and answered within the past three months, and there has been no significant and relevant change of circumstances since the previous question was answered.

~~14.15~~14.16 The Monitoring Officer shall place the questions on the agenda in the order that they have been received. Where the Monitoring Officer considers that the question or the

answer is likely to disclose confidential or exempt information, he/she shall place the question in the exempt part of the agenda. A question may be withdrawn by the Member giving notice provided that such notice is in writing and is submitted to the Monitoring Officer before the agenda is published.

~~14.16~~14.17 At the meeting, the Mayor shall enquire whether the Member submitting the question is present. Where they are present, the Member to whom the question was addressed shall then provide a verbal answer to the question (which may include a promise to provide a more detailed answer in writing). Where the Member who submitted the question is not present, the Member to whom the question was addressed may provide a written response as an alternative to a verbal response. A question may be withdrawn after the agenda has been published but before the meeting if the Member who submitted the question has given notice in writing to the Monitoring Officer. A question may be withdrawn at the meeting in person by the Member who submitted the question before it is to be put.

Supplementary Questions

~~14.17~~14.18 Where the Member who submitted the question is present, after the initial answer, they may ask two supplementary questions arising directly out of the initial question or answer which must not extend into a statement, without notice, and the Member who answered the initial question shall respond to the supplementary questions.

Time Limits

~~14.18~~14.19 The time limit for all questions under this Rule at any meeting shall be up to ~~30~~ 45 minutes. Where a question is not dealt with at the meeting, the Member to whom the question is addressed shall provide a written answer as soon as practicable after the meeting.

Answers

~~14.19~~14.20 An answer may take the form of:

- (a) A direct oral answer
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication
- (c) Where the reply cannot be conveniently given orally, for example because of the absence of the questioner, a written answer circulated.

15. Motions on Notice

15.1 Except for motions which can be moved without notice under Rule 16 below, any Member may submit a notice of motion in writing to the Monitoring Officer for the next ordinary Council meeting, or extraordinary meeting where the meeting is to be convened to consider the subject matter of the notice of motion, to be received by Democratic Services by 5.00 p.m. at least six working days before the date of the meeting to which it is addressed (for example, as the Council usually meets on a Wednesday, the deadline for receipt of a Motion will be 5.00 p.m. on the Monday the week before the meeting is due to

be held). A notice of motion may be accompanied by a statement of not more than 200 words setting out the reason for the proposed motion.

- 15.2 A notice of motion must relate to a matter which affects the authority or the authority's area and must relate to a matter in respect of which the authority has a relevant function.
- 15.3 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.
- 15.4 The Monitoring Officer may reject a notice of motion if, in his/her opinion:
- (a) it does not comply with the requirements of Rule 15.1 above
 - (b) the notice of motion is defamatory of an individual, offensive, or otherwise infringes the proper conduct of local government
 - (c) the recommendation in the notice of motion would be illegal
 - (d) the notice of motion is substantially the same as a question that has been received previously and answered within the past year, and there has been no significant and relevant change of circumstances since the previous question was answered
- 15.5 Where the Monitoring Officer rejects a notice of motion, he/she shall inform the Member submitting the notice of motion as soon as practicable and shall not include the rejected notice of motion in the public record or agenda.
- 15.6 The Monitoring Officer shall record all such notices of motion (not including a rejected notice) in the order in which they are received and such record shall be open to public inspection on request.
- 15.7 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received, save that:
- (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
 - (b) where he/she considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case he/she may group such notices of motion together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.
- 15.8 The Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure or to contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer, as appropriate, setting out the legal or financial effect of the motion.

- 15.9 Where a Member submits a notice of motion which would require an accompanying report under Rule 15.8, he/she shall at the same time provide the Chief Finance Officer and /or the Monitoring Officer with sufficient supporting information to enable them to prepare such accompanying report.
- 15.10 Where a motion which would require an accompanying report under Rule 15.8 falls to be moved without such accompanying report being made available to all Members of Council, the motion shall stand adjourned without debate to the next available meeting of Council.
- 15.11 There will be no time limit for moving and debating motions on notice.
- 15.12 Subject to Rule 15.13, if there are other motions or recommendations on the agenda that have not been dealt with by the close of the meeting, they are deemed formally moved and seconded and shall be put to the vote by the Mayor without Debate.
- 15.13 Where a notice of motion submitted under Rule 15 fails to be dealt with under Rule 15.12, the Member giving the notice (or any Member notified as proposing the motion under rule 19.2) may either:
- (a) speak to the motion for not more than three minutes before the motion is put by the Mayor without Debate; or
 - (b) require that the motion is deferred to the next available meeting and dealt with as business deferred from the previous meeting
- 15.14 If a motion is not moved and seconded, it will not be considered at the meeting to which it has been submitted. Any such motion may be submitted to a future meeting of the Council in accordance with Rule 15.1.

Automatic reference to the Executive / Cabinet or a Committee

- 15.15 If the subject matter of a motion is within the remit of the Cabinet or a Committee, upon being moved and formally seconded, it shall stand referred without discussion to the Executive / Cabinet or relevant Committee including Overview and Scrutiny Committees as the Council may determine, for consideration and report to the Council as soon as practical. At that time the motion shall be considered with any such report which shall include any appropriate risk assessments.
- 15.16 The Council may permit a motion to be dealt with at the meeting at which it is brought forward, provided that the subject matter is urgent or that it is appropriate to deal with the matter, subject to proper information regarding the matters referred to above.
- 15.17 If the motion has been moved only formally the mover shall be entitled to speak in introducing it when it is considered by the Council either at the same meeting (if agreed as above) or at the next meeting when the report of the Cabinet or a Committee is also submitted.

Motions Affecting Persons Employed by the Council

- 15.18 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by

the Council, such matter shall not be the subject of discussion until the Council or Committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.

Motion to rescind a previous decision

- 15.19 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except upon a recommendation from the Leader or Cabinet for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

Motion similar to one previously rejected

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

Motion to remove the Leader of the Council from office

- 15.21 The Leader may be removed from office by resolution of the Council, on a notice of motion signed by fifteen Members and approved, without amendment, by the Council. Any such Motion must be delivered to the Monitoring Officer in writing at least ten working days before the date of the meeting to which it is addressed. If the Council passes such a resolution, a new Leader is to be elected:

- (a) At the meeting at which the Leader is removed from office; or
- (b) At a subsequent meeting

- 15.22 In the event that the Leader no longer holds office as described above, the Deputy Leader will carry out the role and duties of the Leader until the new Leader is elected by the Council.

16. Motions without Notice

- 16.1 The following motions may be moved without notice:

- (a) To appoint a person to preside at the meeting or part 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 elect a Leader or to appoint any other member to a position of authority, i.e., Chair of a Committee, where a vacancy exists in such office [see note below]

- (f) To appoint a Committee or Member arising from an item on the summons for the meeting
- (g) To receive reports or adoption of recommendations of the Executive / Cabinet, the Overview and Scrutiny Committee, Review and other Committees or Officers and to pass 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) To suspend a particular Council procedure rule for a period not exceeding the duration of that meeting
- (o) To exclude the public and press in accordance with the Access to Information Rules
- (p) To not hear further from a Member named under Rule 22.5 or to exclude them from the meeting under Rule 22.6
- (q) To move an urgent motion where the Mayor has given consent under Rule 16.2

Note: Rule 16.1 (e) above will apply in respect of the Leader only at the annual meeting following an election, or following the removal or death or incapacity or resignation of the Leader.

16.2 The Mayor shall, notwithstanding this Rule, have the absolute discretion in exceptional circumstances to accept urgent written notices of motion that cannot reasonably await the next meeting of the Council save for motions of no confidence.

17. Motions of No Confidence

17.1 Motions of no confidence in any office holder shall require to be carried by a majority of the Members of the whole Council (i.e. 25 Members) in order to be approved.

17.2 Motions proposing that a vote of no confidence be taken in respect of any office holder may not be treated as an urgent matter by the Mayor under Rule 16.2.

18. Reports and Recommendations

18.1 The following persons may make a report and recommendations to the Council:

- (a) The Mayor
- (b) The Leader

- (c) Portfolio Holder
- (d) The Chair of Standards and Audit Committee
- (e) The Monitoring Officer
- (f) A Proper Officer
- (g) Any other Officer, reporting in accordance with a statutory obligation
- (h) A Member or Officer reporting as the Council's representative on any statutory body or authority.

18.2 Except in cases of urgency, such person shall report by delivering the report and recommendation to the Monitoring Officer at least 10 clear working days before the meeting.

18.3 Any person having such right to report (or any other person nominated by them) shall have the right to address Council for 3 minutes on the matter of any report and shall answer any questions from Members thereon.

19. Rules of Debate

Requests to change the order in which Motions are considered

19.1 At any meeting of the Council, a Member may request the Mayor to exercise his / her discretion to change the order in which Motions submitted in accordance with Rule 15 are to be considered. The Mayor will exercise their discretion in deciding upon any such request but will take into account the views of any Member who has submitted a Motion that may not be considered in the order in which it was placed on the Agenda for the meeting.

Proposing and seconding motions

19.2 All motions, including amendments, must be proposed and seconded by Members, or deemed to be so under these Rules, before they may be debated and voted upon. Any motion submitted may be proposed by a Member other than the one who submitted it on notice to Democratic Services no later than noon on the day of the meeting, if the Member who submitted is not attending the meeting. The Member who submitted the motion may nominate another Member to move the motion at the meeting, if both Members are present at the meeting.

19.3 A Member seconding a motion shall indicate his/her intention to second the motion immediately following the proposal of the motion, and may then elect to speak immediately following the proposer, or may elect to reserve his/her speech until later in the debate (subject to the prior termination of the meeting or a resolution that the matter be now put).

19.4 Reports and recommendations from Cabinet, Committees, Sub-Committees and Officers shall be deemed to have been proposed and seconded, and the proposer's speech may be taken (for Cabinet) by the Leader or another Cabinet Member deputed by the Leader or (for Committees and Sub-Committees) by the Chair, or in his/her absence the Vice-Chair,

or in both their absence by a Member of the Committee or Sub-Committee chosen by the Mayor.

- 19.5 If the subject matter of the motion is within the remit of the Executive / Cabinet or a Committee, upon being moved and formally seconded, it shall stand referred without discussion to the Executive / Cabinet or relevant Committee including Overview and Scrutiny Committees as the Council may determine, for consideration and report to the Council as soon as practical. At that time the motion shall be considered with any such report which shall include any appropriate risk assessments.

Right to require motion in writing

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

Content and length of speeches

- 19.7 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

- 19.8 No speech may exceed ~~3~~ 4 minutes without the consent of the Mayor except:

- (a) the proposer of any motion who shall have 5 minutes to move that motion (except on a motion to amend where the 3 minute time shall apply)
- (b) The Leader, a Cabinet Member or the Chair or Vice Chair of a Committee who is presenting a report to Council or moving the adoption of minutes or recommendations may speak for 5 minutes
- (c) At the Meeting of Council at which the authority's Budget is proposed, the Leader shall be allowed 20 minutes to set out his/her priorities or to propose the Budget, and a further 10 minutes to respond to any speech. The Leader of the Opposition shall be allowed 15 minutes to reply to a Leader's speech (but not to the response).

- 19.9 In the event of the absence of the Leader or the Leader of the Opposition, the Mayor shall invite the Deputy Leader or another Cabinet Member (for the Leader) or another Member of the same political group (for the Leader of the Opposition) to exercise the rights of speech of the Leader or the Leader of the Opposition.

When a Member may speak again

- 19.10 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) To second formally a motion or amendment, having reserved the right to speak later
 - (b) To speak once on an amendment moved by another Member
 - (c) To move a further amendment if the motion has been amended since he/she last spoke

- (d) If his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- (e) In exercise of a right of reply
- (f) On a point of order
- (g) By way of personal explanation.

Amendments to motions

- 19.11 An amendment to a motion must be relevant to the motion and may be in either or both of the following forms:
- (a) To refer the matter to an appropriate body or individual for consideration or reconsideration; or
 - (b) To leave out words and/or add and/or insert words as long as the effect of so doing is not to negate the motion.
- 19.12 Any amendment must be in writing and submitted to the Monitoring Officer by no later than noon on the day of the meeting, except:
- (a) with the consent of the Mayor
 - (b) amendments to motions which have been moved without notice, or
 - (c) amendments to recommendations arising from Officers' reports
- 19.13 Amendments shall be taken in the order in which they have been moved (unless the Mayor determines otherwise for the efficient running of business). 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.
- 19.14 If an amendment is not carried, other amendments to the original motion may be moved.
- 19.15 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.
- 19.16 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, putting it to the vote.

Alteration of motion

- 19.17 A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 19.18 A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. If the seconder is not present, another Member may second the altered motion on his/her behalf. The meeting's consent will be signified without discussion.

19.19 Only alterations which could be made as an amendment may be made.

Withdrawal of motion

19.20 A motion may be withdrawn by the person giving notice provided that such notice is in writing and is submitted to the Monitoring Officer before the agenda is published. A motion may be withdrawn after the agenda has been published but before the meeting if the Member who submitted the motion has given notice in writing to the Monitoring Officer. A motion may be withdrawn at the meeting in person by the Member who submitted the motion, before it has been moved.

19.21 A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. If the seconder is not present, another Member may consent to the withdrawal on his/her behalf. 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.

Right of reply and order of debate

19.22 The mover of a motion has a right to reply at the end of the debate on a motion immediately before it is put to the vote.

19.23 If an amendment is moved the debate shall proceed in the following manner:

- (a) The mover of the motion shall speak
- (b) The seconder of the motion shall speak unless he or she has reserved their speech
- (c) The mover of the amendment shall speak
- (d) The seconder of the amendment shall speak unless he or she has reserved their speech
- (e) There shall follow such other number of speakers as the Mayor considers appropriate
- (f) If the seconders of the substantive motion and the amendment reserved their speeches, they shall then speak
- (g) The mover of the amendment shall have a right of reply
- (h) The mover of the substantive motion shall have the final right of reply
- (i) A vote shall be taken on the amendment
- (j) A vote shall be taken on the substantive motion, as amended if appropriate, without further debate

Motions which may be moved during debate

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

- (a) to withdraw that motion
- (b) to amend that 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) to exclude the public and press in accordance with the Access to Information Rules
- (h) not to hear further a Member named, or to exclude them from the meeting

Closure motions

19.25 A Member may move, without comment, any one of the following motions at the end of a speech of another Member:

- (a) to proceed to the next business
- (b) that the question be now put
- (c) to adjourn a debate
- (d) to adjourn a meeting

19.26 If a motion to proceed to next business is seconded and the Mayor considers that the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the procedural motion is carried the meeting will proceed to the next item of business without any further debate.

19.27 If a motion that the question be now put is seconded and the Mayor considers that the item has been sufficiently discussed, he/she will put the procedural motion to the vote.

19.28 If the procedural motion is passed the Mayor will give the mover of the original motion a right of reply before putting his/her motion to the vote.

19.29 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor considers that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

19.30 A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. In relation to a breach of the law, the Member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

Personal explanation

- 19.31 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 have been inaccurate or appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

20. Voting

Majority

- 20.1 Unless this Constitution provides otherwise, any matter will be decided by a ~~simple majority~~ simple majority of those Members voting and present in the room at the time the question was put.
- 20.2 Votes on a motion of no confidence in any office holder must be passed by a majority of the Members of the whole Council.

Motions in several parts

- 20.3 Where a motion is in several parts, the vote shall be taken on the whole motion, unless the Mayor at his/her discretion determines that each part shall be taken separately, or the meeting so resolves.

Mayor's casting vote

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

Show of hands or electronic voting

- 20.5 ~~Where no dissent is apparent,~~ the Mayor ~~may~~ will take a vote on a show of hands. In all other cases, he/she shall take a vote by use of such electronic voting system as may be available.

Recorded vote

- 20.6 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require that immediately after any vote relating to the budget or council tax is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. A recorded vote will therefore be taken on any decision relating to the budget or council tax and will follow the procedure set out at Rule 20.7 below.
- 20.7 Notwithstanding Rule 20.5, if any five Members present at the meeting demand it by standing to indicate such demand, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. The procedure for a recorded vote shall be as follows:

- (a) The Mayor shall put the motion and the Chief Executive shall call out the names of Members and record their votes or abstentions
- (b) The Mayor shall declare the result of the vote and the vote of each Member shall be recorded in the minutes

Right to require individual vote to be recorded

- 20.8 This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and cannot therefore be waived. 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.

Voting on appointments

- 20.9 If there are more people nominated for any position(s) than there are position(s) to be filled and there is not a clear majority of votes in favour of the required number of people, 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. Where there is an equality of votes for a person to continue in the appointment process, a vote shall be taken between those candidates having an equality of votes to determine which candidate shall continue in the appointment process.

Voting on changes to the electoral cycle of the Council

- 20.10 Notwithstanding Rule 20.1, two-thirds of the Members present at an Extraordinary Council Meeting must vote in favour of a recommendation to change to whole-council elections for the resolution to be approved.

21. Exclusion of Public and Press

- 21.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Chapter 8 or Rule 23 below.

22. Members' Conduct

Order of Speeches

- 22.1 Subject to the Rules of debate, the Mayor shall have absolute discretion as to the order in which he/she calls Members to speak.

Standing to Speak

- 22.2 When a Member speaks at a Council meeting, he/she shall, unless physically impaired from so doing or with the Mayor's consent, stand and address the meeting through the Mayor. If more than one Member stands to speak, the Mayor shall call a specific Member to speak and all other Members shall then sit. Other Members must remain seated whilst any Member is speaking, except a Member who stands to signify his/her intention to make a point of order or a point of personal explanation

Mayor standing

- 22.3 When the Mayor enters or leaves the Council Chamber, all Members shall stand. When the Mayor stands to speak during the course of the meeting, all Members shall cease speaking and shall sit down.

Telephones and electronic equipment

- 22.4 Each Member shall ensure that his/her mobile telephone and other electronic equipment is silent during any meeting and that his/her use of such equipment does not interfere with the proper conduct of the meeting.

Member not to be heard further

- 22.5 If a Member disregards the ruling of the Mayor by behaving improperly or offensively or obstructs the conduct of the meeting, the Mayor may warn the Member as to his/her conduct. If the Member persists in behaving improperly or offensively or deliberately disrupts the conduct of the meeting despite such warning, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

Member to leave the meeting

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

General disturbance

- 22.7 If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

23. Disturbance by Public

Removal of member of the public

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

Clearance of part of meeting room

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

24. Admission to and reporting of meetings

- 24.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:

- (a) Filming, photographing or making an audio recording of proceedings at a meeting;
 - (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
 - (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present;
- 24.2 If, at any time during the meeting, the Mayor feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in Rules 22.4, 22.7, 23.1 and 23.2 will apply.
- 24.3 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:
- (a) can be used without that person's presence at the meeting, and
 - (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later

25. Suspension and Amendment of Council Procedure Rules

Suspension

- 25.1 All of these Council Rules of Procedure except Rules 13.2 and 20.8 (which are mandatory) may be suspended by motion on notice or without notice if at least two thirds of the Members of the Council are present. Suspension can only be for the duration of the meeting.

Amendment

- 25.2 Any motion to add to, vary or revoke these Council Rules of procedure will, when proposed and seconded, stand adjourned without discussion to the appropriate Committee for consideration and report back to Council at the next ordinary meeting of the Council.

26. Interpretation of Rules

- 26.1 The ruling of the Mayor as to the construction or application of any of these Rules shall not further be challenged at any meeting of the Council.

27. Appointment of Members to Committees

Allocation of seats to Political Groups

- 27.1 Whenever the authority is required to undertake a review of the allocation of seats to political groups, the Chief Executive shall conduct such review and report to Council setting out the number of seats on each Committee and outside body which are allocated to each political group and the number of seats which remain unallocated, in accordance

with the requirements of the Local Government and Housing Act 1989, and shall send a copy of such report to the Leader of each political group and to any Members who are not members of any political group.

- 27.2 Following receipt of a copy of such report, each Leader of a political group shall make nomination to Council of Members for appointment to those seats on each Committee which are allocated to his/her political group. Such nomination may be made in writing to the Chief Executive in advance of the meeting or may be made verbally at the meeting at which such appointments are to be made.
- 27.3 The Leader of any political group may notify the Chief Executive in writing at least ten clear working days before any meeting of Council stating his/her intention to move that a named Councillor be removed from a seat on a particular Committee or outside body which has been allocated to his/her political group and to move the appointment of another Member to that seat, and the Chief Executive shall then include an appropriate item of business in the Council agenda for the next appropriate meeting of Council.

Appointment of Members to Committees

- 27.4 At the meeting of Council where an item of business relating to the appointment of Committees is included on the agenda, the Council shall appoint Members to each Committee in accordance with the nominations made by each group Leader.
- 27.5 The Council will then appoint Members to those seats on Committees which have not been allocated to any political group from amongst those Members who are not members of any political group.

Appointment of co-opted Members of Committees

- 27.6 Where Council determines that a Committee shall include one or more co-opted Member, it shall also specify whether such Member shall be a voting or a non-voting Member, the dates and term of office of any such appointment and the procedure for selection of such co-opted Member(s), which may include advertisement and competition or invitation for nomination from specified bodies.
- 27.7 Co-opted Membership of any Committee shall not be subject to proportionality.

28. Appointment of substitute Members

Appointment

- 28.1 In like manner as for the appointment of full Members of Committees, where the Leader of a political group may nominate a number of Members determined by the Chief Executive for appointment by Council as full Members of the Committee, the Leader of a political group may also nominate an equal number of Members for appointment as substitute Members of the Committee, and Council shall appoint such substitute Members in accordance with the nominations made by the Leader of the political group. No Member shall be appointed as a full Member and a substitute Member of the same Committee.
- 28.2 In like manner as for full Members of Committees, the Leader of a political group may move that a Member of that political group cease to be appointed as a substitute Member of a specified Committee and move that another Member be appointed as a substitute

Member of that Committee, and Council shall make such removal and appointment in accordance with the nominations of the Leader of the group.

Substitution

- 28.3 A substitute Member may attend a particular meeting of the Committee to which he/she has been appointed as a substitute Member, in substitution for a full Member of that Committee from the same political group and with the full powers of a full Member where:
- (a) the full Member for whom the substitute Member will substitute will be absent throughout the whole of the particular meeting; and
 - (b) the substitute Member has notified Democratic Services before the start of the meeting that he/she will be acting as substitute for that meeting, and of the name of the full Member for whom he/she will substitute

Powers and duties

- 28.4 A substitute Member shall have none of the rights of a Member of a Committee unless he/she has been substituted in accordance with Rule 28.3 above.
- 28.5 Once substituted in accordance with Rule 28.3 above, the substitute Member shall have all the powers of a full Member at the meeting.

29. Working Groups

- 29.1 From time to time, the Council may wish to establish Working Groups to consider a specific piece of work or look into a particular issue in more detail outside of the formal meeting. Any such Working Group will comprise of members of the Council, working informally with Officers or other Members and reporting their findings back to the Council. A list of Working Groups will be published and maintained on the Council's website which will state the title, date established, membership, and remit of any Working Groups.
- 29.2 A Working Group established by the Council is not required to conduct its proceedings in accordance with the Scrutiny Procedure Rules in Part 2 of this Chapter or the Access to Information Procedure Rules in Chapter 8 of this Constitution.

Part 3 – Scrutiny Procedure Rules

1. Meetings of the Overview and Scrutiny Committees

- 1.1 There shall be up to six ordinary meetings of each of the Overview and Scrutiny Committees each year.
- 1.2 Subject to Rule 1.4 below, the time and place of meetings shall be as set out in the Calendar of Meetings approved by the Council annually although the Chair and Monitoring Officer or a Committee by resolution, may determine that an ordinary meeting shall be held at such other place as they consider appropriate. The Chair and/or Monitoring Officer may determine, having regard to special circumstances, that a particular ordinary meeting be held at such other time as they consider appropriate.
- 1.3 The ~~Monitoring Officer Chair (or in his/her absence, the Vice Chair)~~ may cancel or postpone an ordinary meeting prior to the issue of an Agenda for the meeting where, after consultation with the ~~Chair of the relevant Committee (or in his/her absence, the Vice Chair)~~, Monitoring Officer, he/she considers that there is insufficient business to transact or where an event occurs which he/she considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the ~~Monitoring Officer Chair (or in his/her absence, the Vice Chair)~~, after consultation with the ~~Chair of the relevant Committee (or in his/her absence, the Vice Chair)~~, Monitoring Officer may postpone an ordinary meeting and hold the meeting on a date to be agreed with the Chair of the relevant Committee (or in his/her absence, the Vice Chair).
- 1.4 The Chair, or in the Chair's absence the Vice-Chair, may from time to time agree to cancel meetings if there is insufficient business to transact at that time.
- 1.5 In addition, an extraordinary meeting of an Overview and Scrutiny Committee may be called by either:
 - (a) The Chair of the relevant Committee, or in the Chair's absence the Vice-Chair
 - (b) A quorum of the Members of the Committee; or
 - (c) The Monitoring Officer if he/she considers it necessary or appropriate.
- 1.6 Meetings may be held in a location suited to the topic under consideration, at the discretion of the Committee Chair, or in the Chair's absence, the Vice-Chair.

2. Work Programme

- 2.1 Each Overview and Scrutiny Committee shall be responsible for setting its own work programme, taking into account the wishes and preferences of the Members of that Committee, including Members who are not members of the largest political group on the Council or of any political group.
- 2.2 Each Overview and Scrutiny Committee may receive requests from the Cabinet and suggestions from Officers of the Council and co-optees for particular topics to be scrutinised.

3. Agenda Items

- 3.1 Any Member of the Council may, with 7 working days' notice, request the Monitoring Officer to include an item on the agenda of a relevant Overview and Scrutiny Committee. Upon receipt of such a request the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant Committee, and advise the Chair accordingly.
- 3.2 There will be a standing item on the agenda of all ordinary meetings of Overview and Scrutiny Committees to allow such requests to be considered.
- 3.3 Any Member who submits a request will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the request and to have the item discussed. The Committee will decide either:
- (a) If the matter is a simple one, to resolve it forthwith
 - (b) To request Officers to prepare a report for the next convenient meeting
 - (c) To set up a task and finish group to investigate and report back to the Committee
 - (d) To make recommendations to the Cabinet or Council, as appropriate
 - (e) To decide to take no further action upon the request, for stated reasons.

3.4 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if they consider it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committees shall report their findings and any recommendations back to the Cabinet or Council, as appropriate. The Council and/or the Cabinet shall consider and respond to a report of an Overview and Scrutiny Committee within two months of receiving it unless otherwise agreed by the Chair of the relevant Committee.

Reports of Cabinet Portfolio Holders

3.5 Once during the municipal year, the Cabinet Portfolio Holder may be requested to report to the relevant Overview and Scrutiny Committee on the progress or otherwise of their respective roles and responsibilities as follows:

(a) Each Portfolio Holder will submit written reports to one meeting of the relevant Overview and Scrutiny Committee per year, which should be circulated with the main agenda for the meeting.

3.4—(b) The time allowed to introduce the report and receive questions on each report shall, unless otherwise agreed by the Committee, not exceed 30 minutes, during which time the Cabinet Member will have up to 5 minutes to introduce the report, all Members will be able to seek to make contributions and ask questions on the report, after which the Portfolio Holder will have up to 2 minutes to sum up.

4. Policy Review and Development

- 4.1 The role of the Overview and Scrutiny Committees 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 set out in Chapter 3 Part 3.
- 4.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework Budget, an Overview and Scrutiny Committee may:
- (a) Consider and make recommendations to the Cabinet on any matters that are consistent with its terms of reference
 - (b) Hold enquiries and investigate the available options for future direction in policy development and appoint advisers and assessors to assist in this process, within available Budgets
 - (c) Do anything which is reasonable to assist or inform its deliberations, including a general call for evidence, site visits, public surveys, public meetings and commissioning research
 - (d) Ask witnesses to attend to address it on any matter under consideration and pay to any advisers, assessors or witnesses a reasonable fee and expenses for doing so.
- 4.3 The Overview and Scrutiny Committees may also exercise the above tasks through Task and Finish groups.

5. Procedure at Overview and Scrutiny Committee Meetings

- 5.1 Overview and scrutiny Committees shall consider the following business:
- (a) Minutes of the last meeting
 - (b) Receipt of urgent business
 - (c) Declarations of interest (including whipping declarations)
 - (d) The receipt of petitions from members of the public (in accordance with the Public Participation Procedure as set out later in this Chapter.)
 - (e) Public questions, statements or depositions (in accordance with the Public Participation in Scrutiny Procedure as set out in later in this Chapter in Rule 14)
 - (f) Consideration of any matter referred to the Committee by a Member under Rules 3.1 or 3.2 above;
 - (g) Responses of the Council or the Cabinet to the Committee's reports or recommendations;
 - ~~(h) Any Councillor Call for Action in accordance with procedure set out in Rule 11 below.~~
 - (+)(h) Any other business specified in the agenda for the meeting, and

(j)(i) The Forward Plan and its work programme.

- 5.2 The provisions of the Committee Procedure Rules set out in Chapter 5 will be applied to meetings of the Overview and Scrutiny Committees to the extent they are considered appropriate.
- 5.3 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:
- (a) that the investigation is conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak
 - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy
 - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis
- 5.4 Within those principles the Council expects the Overview and Scrutiny Committees to be effective, thorough and incisive and to consider all relevant evidence in their work. It also expects the Committees to strive for continuous improvement in the overview and scrutiny function and to develop further opportunities for public engagement.
- 5.5 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 subject to the Access to Information Rules and provisions relating to confidential and exempt reports or information, and any prohibition, limitation or restriction on disclosure arising from statute, any rule of law, or order of a court.
- 5.6 The Protocol for Member/Officer Relations contained in Chapter 7 of the Constitution shall apply to the attendance of Officers giving evidence to an Overview and Scrutiny Committee or sub-Committee.

6. Reports from Overview and Scrutiny Committees

- 6.1 An Overview and Scrutiny Committee may prepare a formal report, with recommendations, and submit it to the Monitoring Officer with a notice requiring it to be considered by the Cabinet or the Council as appropriate, depending on which body is responsible for the function concerned and whether the proposals are consistent with the Council's Budget and Policy Framework. Where a report is to be made to the Council, the Monitoring Officer shall refer a copy to the Leader with notice that the matter is to be referred to the Council.
- 6.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet or Council as appropriate, then one or more minority reports may be prepared and submitted for consideration by the Cabinet or Council at the same time as the majority report. Officers shall support the preparation of any such minority reports.

- 6.3 The Cabinet or Council as appropriate, in compliance with its legal duty to comply with any notice given by an Overview and Scrutiny Committee under Rule 6.1 above, shall:
- (a) consider the report and recommendations of the Overview and Scrutiny Committee at its next available meeting
 - (b) respond to any such report within two months of its receipt indicating what action, if any, the authority or the Cabinet proposes to take, and if it decides to take no action, the reasons for that decision

6.4 The agenda for Cabinet meetings shall include a standard item entitled 'Overview and Scrutiny Committee Matters' to facilitate the Cabinet's early consideration of scrutiny reports and recommendations, which shall be included at this point on the agenda unless they have been reported as part of a substantive item elsewhere on the agenda.

6.5 Reports and recommendations of Overview and Scrutiny Committees will normally be presented at Cabinet and Council meetings by the relevant Overview and Scrutiny Committee Chair or Vice-Chair, or by another non-executive Member nominated by that Committee. The Member concerned will be invited to participate in discussion of the report.

Reports on Local Improvement Targets

6.6 Where the Corporate Overview and Scrutiny Committee or any other Overview and Scrutiny Committee makes a report or recommendations on a local improvement target specified in the Local Area Agreement that relates to a relevant partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions. This power will be exercised in accordance with such government regulations and statutory guidance as may be issued under section 21C of the Local Government Act 2000 (inserted by section 122 of the Local Government and Public Involvement in Health Act 2007).

Reports on Local Crime and Disorder Matters

6.7 Where the Cleaner Greener and Safer Overview and Scrutiny Committee makes a report or recommendations on a local crime and disorder matter within its terms of reference, it will copy the report to the responsible authorities, notifying them of their duty under section 19 of the Police and Justice Act 2006 (as amended by section 126 of the Local Government and Public Involvement in Health Act 2007) (a) to consider the report or recommendations; (b) to respond to the Committee in writing within 28 days indicating what (if any) action it proposes to take; and (c) to have regard to the report or recommendations in exercising its functions. This power will be exercised in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009. The matters considered by the Committee will be crime and disorder matters to the extent that they fall within the Council's crime and disorder strategy.

Reports on Local Health Service Matters

6.8 Where the Health and Wellbeing Overview and Scrutiny Committee makes a report or recommendations on a local health service matter, it will copy the report to the relevant NHS bodies and request a response in writing within two calendar months.

6.9 Where the Committee (including any joint health Overview and Scrutiny Committee to which the Committee has appointed one or more Members) has been consulted by a local NHS body on any proposal for a substantial variation or development in local NHS services, and the Committee (having considered the evidence) is not satisfied that consultation has been adequate, or considers that the proposal would not be in the interests of the health service in the area, then it may report in writing to the Secretary of State, under section 244, NHS Act 2006.

7. Rights of Overview and Scrutiny Committee Members to Documents

7.1 Overview and Scrutiny Committees will have access to the Forward Plan of key decisions of the Cabinet and timetable for decisions and intentions for consultation.

7.2 In addition to their rights as Councillors, Members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules set out in Chapter 8 of the Constitution.

7.3 Nothing in this paragraph shall prevent more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

8. Members and Officers giving Account

8.1 An Overview and Scrutiny Committee (or Task and Finish Group) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or other matter that is within its terms of reference. As well as reviewing documentation an Overview and Scrutiny Committee (including any task group) may, in fulfilling the scrutiny role, require any Member of the Cabinet, the Chief Executive and/or any Director to attend before it to explain, in relation to matters within their remit:

- (a) Any particular decision or series of decisions
- (b) The extent to which the actions taken implement Council policy
- (c) The performance of their areas of responsibility

8.2 An Overview and Scrutiny Committee may also require any Council Member who has been granted local ward Member powers (for instance a delegated Budget) under section 236 of the Local Government and Public Involvement in Health Act 2007 to attend before it to answer questions on any function which the Member has power to exercise.

8.3 It is the duty of those persons described in Rules 8.1 and 8.2 above to attend if so required.

8.4 Where any Cabinet Member, Ward Member or Officer is required to attend an Overview and Scrutiny Committee or a task group under this provision, Democratic Services staff will inform that Member or Officer in writing, giving at least 5 working days' notice of a meeting of the Overview and Scrutiny Committee meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee.

- 8.5 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 at least 14 working days' notice to allow for preparation of that documentation.
- 8.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then a substitute may be asked to attend or the Overview and Scrutiny Committee may, in consultation with the Member or Officer, arrange an alternative date for attendance, which shall be no later than the next scheduled meeting.

9. Attendance by others

- 9.1 An Overview and Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may wish to hear for example from residents, representatives from the local NHS Trust, stakeholders, Members and Officers in other parts of the public sector, or experts, and may invite such people to attend.
- 9.2 Public participation in meetings of the Overview and Scrutiny Committees shall be governed by the provisions set out later in this chapter.
- 9.3 Any Member of the Council shall be entitled to attend meetings of the Overview and Scrutiny Committees and to speak once on any agenda item, with further speaking being at the discretion of the Chair.
- 9.4 Rule 9.3 above is subject to the Rules on non-pecuniary, pecuniary and disclosable pecuniary interests in the Members' Code of Conduct set out in Chapter 7, Part 3 of the Constitution; which would permit a Member with a non-pecuniary or non-disclosable pecuniary interest or disclosable pecuniary interest to attend an Overview and Scrutiny Committee meeting but only for the purpose of answering questions or giving evidence at the request of the Committee relating to the business under discussion; the Member must then withdraw from the meeting. If the Member wishes to make representations to the Committee he/she may do so after being granted a dispensation
- 9.5 Rule 9.4 above does not prevent an Overview and Scrutiny Committee from requiring Cabinet Members or inviting other persons (including Council Members) to attend before it to answer questions.

10. Call-in

- 10.1 Call-in is the exercise of the Overview and Scrutiny Committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive / Cabinet decision that has been made but not yet implemented. Where a decision is called in and the Overview and Scrutiny Committee decides to refer it back to the Cabinet for reconsideration, it cannot be implemented until the Call-In procedure is complete.
- 10.2 Any decision of the Executive / Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a Key Decision made by an Officer under authority delegated by the Cabinet, is subject to Call-In. A decision may be called in only once. An Executive / Cabinet recommendation to full Council may not be called in.

- 10.3 The Call-In procedure and the powers to refer a decision back for reconsideration may be exercised by any of the Overview and Scrutiny Committees, within the remit of their respective terms of reference.
- 10.4 Requests for Call-In can only be made if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in the Constitution (Article 13, paragraph 2.1) and repeated as follows:
- (a) Due regard for the individuals and communities served by Thurrock Borough Council
 - (b) Proportionality (i.e. the action must be proportionate to the desired outcome)
 - (c) Due consultation
 - (d) Respect for human rights
 - (e) A presumption in favour of openness, and
 - (f) Clarity of aims and desired outcomes (i.e. link between strategy and implementation)
 - (g) Consistent with the Council's Budget and Policy Framework.
- 10.5 Call-in of decisions which may be contrary to the Budget and Policy Framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules in Chapter 3 Part 3 of the Constitution.

The Call-In Procedure

- 10.6 Once made, an Executive decision shall be published, in the form of a decisions notice, within two working days at the Council's main offices and on its public website. The decisions notice will be sent to all Members of the Council within the same timescale.
- 10.7 The decisions notice will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 working days after the publication of the decision and may then be implemented, unless called in under this provision within that 5 clear working day period. The deadline for a Call-In request will be specified in the decisions digest.
- 10.8 Requests for Call-In may be made by either:
- (a) An individual Member where a decision has particular significance for that Member's ward
 - (b) The Chair of the relevant Overview and Scrutiny Committee
 - (c) Any two Members of the relevant Overview and Scrutiny Committee
 - (d) Any three non-executive Members of the Council
 - (e) A voluntary group with an interest in the area

- (f) A local business situated in the area (except in relation to decisions relating to procurement of goods and services)
 - (g) 10 members of the public living, working or studying within Thurrock Council area
- 10.9 A Call-In request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or separate e-mails from the persons making the Call-In request will be acceptable.
- 10.10 The notice must set out:
- (a) the resolution or resolutions that the Member(s) wish to call in
 - (b) the reasons why they wish the Overview and Scrutiny Committee to consider referring it back to the Cabinet, citing one or more of the reasons set out in Rule 10.4 above and the particulars of the reason/s, and
 - (c) the alternative course of action or recommendations that they wish to propose.
- 10.11 The Call-In request will be deemed valid unless either:
- (a) The procedures set out in Rules 10.7 to 10.10 have not been properly followed
 - (b) The grounds for call in as set out in Rule 10.4 above have not been met
 - (c) A similar decision has been called in to the Committee previously within 2 years
 - (d) The decision has been recorded as urgent in accordance with Rules 10.14 to 10.17 below
 - (e) The Chief Executive after consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call-In to be frivolous, vexatious or not a proper use of the Call-In provisions taking into account the following factors:
 - (i) Whether the matter has been considered as part of pre-decision scrutiny by any scrutiny Committee, Sub-Committee, task group or panel.
 - (ii) Whether there has been any substantive change in the nature of the decisions being made since any pre-decision scrutiny of the proposals.
 - (iii) Whether the recommendations or alternative course of action or recommendations in the Call-In request have been previously considered and rejected in whole or part as part of pre-decision scrutiny.
 - (iv) Any other relevant factor
 - (f) The Chief Executive in consultation with the Monitoring Officer considers that the Call-In would result in the Council failing to discharge its legal duties.

- 10.12 Before deciding on its validity, the Chief Executive may seek clarification of the Call-In request from the Member(s) concerned. In the absence of the Chief Executive, the Monitoring Officer shall exercise the Chief Executive's functions in this respect.
- 10.13 Upon deciding on its validity, the Chief Executive shall forthwith notify the Member(s) concerned, the Leader and Portfolio Holder, the Chair and Vice-Chair of the Overview and Scrutiny Committee, the relevant Director/Assistant Director and Officer responsible for overview and scrutiny.

Decisions not subject to Call-In

- 10.14 The following categories of decision are not subject to Call-In:
- (a) recommendations by the Cabinet on the Budget and Policy Framework, which will be determined by the Council
 - (b) decisions for urgent implementation under the Access to Information Procedure Rules
 - (c) urgent decisions outside the Budget or Policy Framework as set out in Chapter 3, Part 3, Budget and Policy Framework Procedure Rules (Rule 4)
 - (d) decisions to award a contract following a lawful procurement process

Call-In and Urgency

- 10.15 The Call-In procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:
- (a) A Call-In would prevent the Council reaching a decision that is required by statute or otherwise within a specified timescale
 - (b) Any delay likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision making body or person before the decision is taken
 - (c) Any delay likely to be caused by the Call-In process would be likely to expose the Council, its Members or its constituents to significant level of risk, loss, damage or significant disadvantage
- 10.16 In the case of (b) above the decisions digest shall state whether the decision is an urgent one, and therefore not subject to Call-In. The consent of the Chair of the relevant Overview and Scrutiny Committee is required to agree to the decision being treated as a matter of urgency before it may be so treated. In the absence of the Chair, the Vice-Chair of the relevant Overview and Scrutiny Committee's consent is required. In the absence of that person, the Mayor's consent is required. In the absence of the Mayor, the Deputy Mayor of the Council's consent is required.
- 10.17 Where the Cabinet has recorded a decision as urgent, an Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

Consideration by the Overview and Scrutiny Committee

- 10.18 The Monitoring Officer will ensure that any valid Call-In is reported to the next available meeting of the relevant Overview and Scrutiny Committee, or will convene an extraordinary meeting in accordance with Rule 1.5 above.
- 10.19 The Member(s) submitting the request for Call-In will be expected to attend the meeting of the relevant Overview and Scrutiny Committee to explain their reasons for the Call-In and the alternative course of action or recommendations they wish to propose.
- 10.20 Having considered the Call-In and the reasons given, the relevant Overview and Scrutiny Committee may either:
- (a) Refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations
 - (b) If it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to full Council after seeking the advice of the Monitoring Officer and/or Chief Finance Officer in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules in Chapter 3, Part 3 of the Constitution
 - (c) Decide to take no further action, in which case the original Cabinet decision will be effective immediately.

Decisions Referred Back to the Decision-Maker

- 10.21 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the Overview and Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.
- 10.22 If a decision relates to an Executive function, only the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's Budget and Policy Framework.

11. Councillor Call for Action

- 11.1 Any Member of the Council may, with 7 working days' notice, request the Monitoring Officer to include a Councillor Call for Action on the agenda of a relevant Overview and Scrutiny Committee. Upon receipt of such a Call for Action the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant Committee, and advise the Chair accordingly.

11.2 A Councillor Call for Action must be in the form of a written application (the appropriate form is available from the Democratic Services Manager) submitted to the Monitoring Officer and received within the timescale outlined in Rule 11.1 above.

~~11.211.3 There will be a standing item on the agenda of all ordinary meetings of Overview and Scrutiny Committees to allow such Calls for Action to be considered.~~

[41.311.4](#) Any Member who submits a Call for Action will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the Call for Action and to have the item discussed. - The Committee will decide either:

- (a) If the matter is a simple one, to resolve it forthwith
- (b) To request the Officers to prepare a report for the next meeting
- (c) To request the Member submitting the Call for Action to provide further evidence or information to a future meeting
- (d) To set up a task and finish group to investigate and report back to the Committee
- (e) To make recommendations to the Cabinet or Council, as appropriate
- (f) To decide to take no further action upon the request, for stated reasons.

[41.411.5](#) The Councillor Call for Action will be deemed valid unless either:

- (a) The procedures set out in Rules 11.1 and 11.2 have not been properly followed;
- (b) It does not relate to a local government matter (i.e. it does not relate to the functions of the Council nor its partners)
- (c) It does not relate to a local crime and disorder matter (including anti-social behaviour, behaviour adversely affecting the local environment and misuse of drugs, alcohol or other substances)
- (d) It does not affect all or part of the ward for which the referring Member is elected, or any person who lives or works in that ward
- (e) It is a matter that has been excluded by Order of the Secretary of State (e.g. planning or licensing appeals and other quasi-judicial matters), or
- (f) The Monitoring Officer, in consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call for Action to be frivolous, vexatious or clearly outside the Councillor Call for Action provisions; in which case the Monitoring Officer may reject the Call for Action request.

[41.511.6](#) Before deciding on its validity, the Monitoring Officer may seek clarification of the Call for Action from the Member concerned. In the absence of the Monitoring Officer, the Deputy Monitoring Officer(s) shall exercise the Monitoring Officer's functions in this respect.

[41.611.7](#) Upon deciding on its validity, the Monitoring Officer shall forthwith notify the Member concerned, the Leader and Portfolio Holder, the Chair and Vice-Chair of the relevant Overview and Scrutiny Committee, the Chief Executive, the relevant Director/Assistant Director and Officer responsible for overview and scrutiny.

12. The Party Whip

- 12.1 When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence and nature of the whip before the Committee's deliberations on the matter commence.
- 12.2 The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

13. Matters within the remit of more than one Overview and Scrutiny Committee

- 13.1 Where a matter falls within the remit of more than one Overview and Scrutiny Committee, and their respective remits in relation to it cannot be satisfactorily resolved by the Chairs of those Committees, the Chief Executive will decide which Committee should consider it.
- 13.2 Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, then the Committee conducting the review shall normally either:
- (a) invite the Chair of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed, or
 - (b) consult the other Committee on its findings and recommendations, and include that Committee's comments in its own report to the Cabinet and/or Council.

14. Public Participation in Scrutiny

- 14.1 Residents of Thurrock Council and those working, studying or with a business interest in the area are able to participate in the scrutiny process by:
- (a) Attending meetings
 - (b) Presenting petitions
 - (c) Asking a question
 - (d) making a statement or forming a deputation to the Scrutiny Committee (see Rule 5.1.(e))
 - (e) Being involved in a scrutiny investigation; or
 - (f) Calling in a Cabinet decision (10 people need to sign a Call-In request)
- 14.2 Rules set out for Petitions and Questions in Chapter 1, Part 2, Article 3 will apply to those presenting a petition or a question to Overview and Scrutiny Committees.
- 14.3 When there is a scrutiny investigation that would benefit from public participation the Officer supporting such investigation will ensure such participation is facilitated.
- 14.4 Members of the public interested in participating in a particular scrutiny investigation can do so by contacting the Democratic Services staff or the relevant Chair directly.

15. Admission to and reporting of meetings

- 15.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as::
- (a) Filming, photographing or making an audio recording of proceedings at a meeting;
 - (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
 - (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.
- 15.2 If, at any time during the meeting, the Chair feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in the Council Procedure Rules at Chapter 2, Part 2 of this Constitution, namely Rules 22.4, 22.7, 23.1 and 23.2, will apply.
- 15.3 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:
- (a) can be used without that person's presence at the meeting, and
 - (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

Annex 3 – Thurrock Council Petition Scheme

1. Introduction

- 1.1 The Council welcomes petitions and recognises that these are one way in which people can let us know their concerns.
- 1.2 All petitions sent to or presented at a meeting of the Council will receive an acknowledgement within 10 working days of receipt and this will set out what we plan to do with the petition.
- 1.3 We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.
- 1.4 Paper copies of petitions should be sent to:

Democratic Services
Thurrock Council
Civic Offices
New Road
Grays
RM17 6SL

Petitions can be presented to a meeting of the Full Council. These meetings usually take place each month (except during April (in the year of an election), August and December). Dates and times of meetings of the Council can be found at:

democracy.thurrock.gov.uk/mgCalendarMonthView.aspx

- 1.5 In addition, petitions may also be presented to the following meetings:
- (a) The Cabinet
 - (b) Overview and Scrutiny Committees
 - (c) The Standards and Audit Committee
 - (d) The General Services Committee
 - (e) The Corporate Parenting Committee
- 1.6 If you would like to present your petition to a meeting of the Council, the Cabinet or to a meeting of a particular Committee, as detailed in 1.5 above, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services, on (01375) 652082 **no later than 12:00 noon on the working day before that meeting** and they will talk you through the process.
- 1.7 If your petition has received 1500 signatures or more it will also be scheduled for a debate at a meeting of Council, unless it is a petition that cannot be dealt with through this Scheme (see paragraphs 4.1 to 4.3). If a petition is scheduled for a debate at a meeting of the Council, we will discuss with the petition organiser when this will take place.

1.8 You can also submit petitions to the Cabinet and other committees (including Overview and Scrutiny). Details of when these meetings take place can also be found on the Council's website.

1.9 The Council also offers a facility where a Petition can be created, signed and submitted online and this can be found at:

consult.thurrock.gov.uk/petitions

2. What are the guidelines for submitting a petition?

2.1 All Petitions must identify and be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

2.2 The contact details of the petition organiser will not be placed on the website.

2.3 Petitions submitted to the Council must:

- (a) contain the name, a valid address and the signature of at least 10 local government electors for the administrative area of Thurrock who support the petition. If a petition does not contain the signatures of 10 local government electors in Thurrock it will be rejected.
- (b) include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
- (c) relate to a matter for which the authority has responsibility and which affects the authority or its area
- (d) not, in the opinion of the Monitoring Officer, be trivial, defamatory, offensive, be substantially the same as a petition which has been considered under these Rules within the previous 12 months, name or clearly identify an employee of the authority, or involve the disclosure of confidential or exempt information

2.4 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum, we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

2.5 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

2.6 If your petition does not reach the minimum requirement of 10 signatures (as detailed in paragraph 2.3(a) above), particularly if the issue relates to a small locality, we will seek to advise you of other ways in which your views could be considered.

2.7 If you wish to present your petition to a specific meeting of the Council, the Cabinet or any committee meeting (including Overview and Scrutiny), you should provide us with details of the subject of the petition, the number of signatures and your contact details by **no later than 12:00 noon on the working day before that meeting**, to enable it to be submitted.

Please note that petitions submitted by the petitioner to meetings of the Council or a relevant committee will not be discussed in detail at that point, unless there is an agenda item specifically relating to that issue. Petitions received in this way will be passed to the appropriate councillor or officer for proper consideration.

- 2.8 Any Member or member of the public presenting a petition shall be entitled to address the Council or relevant committee on the matter which is the subject of the petition for up to ~~two minutes~~ three minutes. Unless the petition relates to a matter which is to be determined by Council itself, it shall then be referred to the Cabinet, Cabinet Member or Committee, as appropriate, without debate.

3. What will the council do when it receives my petition?

- 3.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. This may also be published on our website.
- 3.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate (see paragraph 7.1), or a senior officer giving evidence (see paragraph 8), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.
- 3.3 Where the Monitoring Officer is of the opinion that the subject matter of the petition relates to a matter which is, or will shortly be, the subject of statutory or non-statutory consultation by the authority or is to be reported to a forthcoming meeting of a Committee of the Council, he/she may elect to include the petition in the responses to that consultation, or, report the petition to the relevant Committee for consideration in the ordinary determination of that matter.
- 3.4 Where a petition received at a meeting of the Full Council is referred to the Cabinet, a Cabinet Member or a Committee, the Monitoring Officer shall advise the petition organiser accordingly. The petition shall be considered by the Cabinet, Cabinet Member or Committee at their next convenient meeting or occasion.
- 3.5 We reserve the right to verify signatures as required. Please ensure you include a valid address and postcode that relates to your home address (if you live or study in Thurrock) or work address (if you work or run a business in Thurrock). These signatures will be taken into account when identifying if there are enough signatures from people who live, work or study in Thurrock to trigger a full council debate or call an officer to account at an Overview and Scrutiny meeting.

4. Petitions that cannot be dealt with through this scheme (exempt petitions)

- 4.1 In order not to duplicate procedures where established processes already exist for people to voice their opinions, the following matters are excluded from this Scheme:
- (a) Any matter relating to an individual or entity where there is already an existing recourse to a review or right of appeal, such as Council tax banding and non-domestic rates.

- (b) A statutory petition (for example requesting a referendum on having an elected mayor).
- (c) Petitions from Council staff, which will be dealt with through the Council's Grievance Procedure or other such applicable Human Resources Policy.
- (d) Any petitions relating to the day-to-day operation of a particular school(s), which will be referred to the relevant Governing Body of the school(s) concerned for action and a response.
- (e) Any petitions relating to issues which are outside the Council's direct control, i.e. matters governed by national or European legislation, including any contractual matters.
- (f) Any petitions which relate to any matter that is the subject of legal proceedings and/or in which the Council is in some other legal dispute with any party referred to within the body of a petition or party to it.

However, a petition that alleges a systematic failure to deliver services in the above areas is within the scope of this Scheme.

4.2 We will not take action on any petition, which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

4.3 Any petition that is a duplicate or near duplicate of another petition that the Council has already received will not be able to be considered within a 12 month period. You are advised to check the details of previous petitions on our e-petitions site or contact us for advice at the start of your petition.

5. Petitions relating to Planning or Licensing matters and those received in direct response to consultations undertaken by the Council

5.1 A petition in respect of any matter relating to a planning decision, including enforcement action, a development plan document or community infrastructure levy will be dealt with as part of the decision making process for the decision in question and will not follow the processes set out within this Scheme. Any petitions relating to planning decisions should be sent to:

Development Management, Thurrock Council,
Civic Offices, New Road, Grays, RM17 6SL.

Further information on how to have you say on planning applications is available at:

regs.thurrock.gov.uk/online-applications

5.2 A petition in respect of any matter relating to an alcohol, gambling or sex establishment licensing decision will be dealt with as part of the decision making process for the decision in question and will not follow the processes set out within this Scheme. Any petitions relating to licensing decisions should be sent to:

Licensing, Public Protection, Thurrock Council,
Civic Offices, New Road, Grays, RM17 6SL.

- 5.3 A petition in respect of any matter which is subject to public consultation by the Council, for example, those seeking views upon the introduction of highways or parking schemes, should be sent directly to the department undertaking the consultation exercise. Any such petitions received will be dealt with by the department to which the petition has been submitted and will not follow the processes set out within this Scheme.

Any petition falling as described in paragraphs 5.1 and 5.3 may be debated by the Council if the number of signatories is equal to or greater than the threshold set out in paragraph 7.1 of this Scheme.

6. How will the council respond to petitions?

- 6.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- (a) taking the action requested in the petition
- (b) considering the petition at a Council meeting
- (c) holding an inquiry into the matter
- (d) undertaking research into the matter
- (e) holding a public meeting
- (f) holding a consultation
- (g) holding a meeting with petitioners
- (h) referring the petition for consideration by an Overview and Scrutiny committee*
- (i) calling a referendum
- (j) writing to the petition organiser setting out our views about the request in the petition

* Overview and Scrutiny committees are committees of Councillors who are responsible for scrutinising the work of the Council – in other words, the overview and scrutiny committee has the power to hold the Council's decision makers to account.

- 6.2 In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Part 2 – Committee Procedure Rules

1. Time and Place of Meeting

- 1.1 The time and place of any meeting will be determined by the Monitoring Officer and notified in the summons.

2. Meetings

- 2.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The Agenda for a meeting will give the date, time and place of each meeting, specify the business to be transacted, and will be accompanied by such reports as are available.
- 2.2 The ~~Monitoring Officer Chair (or in his/her absence, the Vice Chair)~~ may cancel or postpone an ordinary meeting prior to the issue of an Agenda for the meeting where, after consultation with the ~~Chair of the relevant Committee (or in his/her absence, the Vice Chair), Monitoring Officer~~ he/she considers that there is insufficient business to transact or where an event occurs which he/she considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the ~~Monitoring Officer Chair (or in his/her absence, the Vice Chair),~~ after consultation with the ~~Chair of the relevant Committee (or in his/her absence, the Vice Chair), Monitoring Officer~~ may postpone an ordinary meeting and hold the meeting on a date to be agreed with the Chair of the relevant Committee (or in his/her absence, the Vice Chair).
- 2.3 The Monitoring Officer may call an extraordinary meeting of a Committee, after giving consideration to a request by either:
- (a) The Chair of the relevant Committee, or in the Chair's absence, the Vice-Chair
 - (b) A quorum of the Members of a Committee

3. Chair of Meeting

- 3.1 The Chair and Vice Chair of each Committee shall be appointed by the Council at its Annual Meeting.
- 3.2 Where both the Chair and Vice Chair are not present or able to act in respect of a particular item of business at a meeting, it is necessary to elect a person to preside over the meeting, or particular item of business, in their absence.
- 3.3 In any such case, the Democratic Services Officer in attendance at the meeting shall invite nominations from those members of the Committee for a person to preside at the meeting or in respect of the particular item, as necessary.
- 3.4 If there is more than one nomination, any vote that may be required can be determined by a simple majority of votes from those members of the Committee.
- 3.5 If there are more than two people nominated and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be

taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. If there is still an equality of votes, the matter shall be determined by the drawing of lots.

3.6 The person presiding at the meeting may exercise any power or duty of the Chair.

4. Quorum

4.1 The quorum of a meeting will be one quarter of the whole number of Members, provided that in no case shall the quorum of a Committee be less than three Members. During the meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn for 15 minutes. If after that time the Chair counts the number of Members present and declares that there is still no quorum the meeting will adjourn. The remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

5. Voting

Majority

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

Chair's casting vote

5.2 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.

Show of hands

5.3 Unless a ballot or recorded vote is demanded under Rules 5.4 or 5.5 below, the Chair will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

Ballots

5.4 The votes will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

Recorded vote

5.5 If no less than one fifth of the Committee's Membership demand it at the meeting, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

Recording of votes at the Planning Committee

- 5.6 In cases where the Planning Committee votes on an application or enforcement matter to be determined by the Council, the Clerk to the Planning Committee shall record in writing and shall enter into the minutes the names of those Members voting for, against or abstaining from any such vote.

Right to require individual vote to be recorded

- 5.7 Where any Member requests it immediately after a vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

Voting on appointments

- 5.8 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

6. Minutes

Signing the minutes

- 6.1 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 an accurate record. The only part of the minutes that can be discussed is their accuracy.

Form of minutes

- 6.2 Minutes will contain all motions and amendments in the exact form and order as put to the meeting.

7. Exclusion of Public

- 7.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules or the Council Procedure and Rules.

8. Member's Conduct

Chair Standing

- 8.1 When the Chair stands during a debate, any Member speaking at the time must stop. The meeting must be silent.

Member not to be heard further

- 8.2 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.

Member to leave the meeting

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

9. Disturbance

General disturbance

- 9.1 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

Removal of member of the public

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

Clearance of part of a meeting room

- 9.3 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, and may adjourn the meeting for 15 minutes or other suitable period.

10. Motion affecting persons employed by the Council

- 10.1 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) or (4) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Committee has decided whether or not the power to exclude the public under section 100 (A) (2) or (4) of the Local Government Act 1972 shall be exercised.

11. Petitions

- 11.1 Committees may be presented with petitions in accordance with the Council's Petition Scheme.

12. Rules of Debate

- 12.1 The Rules of debate that apply to Council meetings set out in Chapter 2, Part 2, may be applied to meetings of Committees to the extent that the Chair considers appropriate.

13. Participation of Appointed Members

- 13.1 A Committee may make it a requirement of any Member participating as a Member of the Committee or of a Sub-Committee that the Member has undertaken appropriate training in the roles and responsibilities of Members in discharging the functions of the Committee or Sub-Committee, and may arrange for the provision of such training to all, or all new, Members of the Committee or Sub-Committee.

13.2 Enhanced DBS checks are carried out for all elected Members and any co-opted Members who are appointed to a committee or board which discharges education or social services functions. These checks will be carried out strictly in line with the Council DBS policy and any current eligibility guidance from a relevant DBS agency.

14. Attendance of other Members of the Council

14.1 A Member who is not a Member of the particular Committee or Sub-Committee may attend all meetings of any Committee or Sub-Committee, save that he/she shall withdraw from any part of a meeting from which the Committee or Sub-Committee excludes press and public unless specifically invited to remain by the Chair because of the special contribution which he/she can bring to the issue under consideration.

15. Recording of Meetings

15.1 Meetings of Council, the Planning Committee, the General Services Committee and Licensing Sub-Committees are routinely recorded and, on occasion, a recording may be made of any other Committee meeting.

15.2 Where a meeting is to be recorded, the Chair will make an announcement to this effect prior to the start of the meeting.

15.3 Recordings of meetings will be kept for a period not exceeding 12 months.

16. Admission to and reporting of meetings

16.1 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:

- (a) Filming, photographing or making an audio recording of proceedings at a meeting;
- (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
- (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.

16.2 If, at any time during the meeting, the Chair feels that filming, recording, reporting or photography is disrupting proceedings, the provisions set out in Rules 9.1, 9.2 and 9.3 will apply.

16.3 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:

- (a) can be used without that person's presence at the meeting

- (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

17. Duration of Meeting

Termination of Meetings

- 17.1 If the business of the meeting has not been concluded by two and a half hours after its start, the Chair must interrupt the meeting. The Chair will then and without debate take a vote as to whether to continue with the meeting. Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned and any remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next meeting.

Part 4 – Licensing Committee

Part 4 (a) – Terms of Reference of the Licensing Committee

Council has determined that the Licensing Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

| | |
|---|--|
| 1. Licensing Committee | |
| Appointed by: The Council under section 6 of the Licensing Act 2003 and section 102 of the Local Government Act 1972 | Number of Elected Members: Fifteen |
| Chair and Vice-Chair appointed by: The Council | Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality |
| Quorum: Three | Co-opted Members to be appointed by Council: None |
| Functions determined by Council: | |
| <p>1. To undertake all matters in relation to the Council's licensing, permit and registration function, including Part VI of the Essex Act 1987, other than:</p> <ul style="list-style-type: none"> 1.1 Functions specifically delegated to the Cabinet or another Committee; 1.2 The approval of byelaws; or 1.3 The approval of policy guidelines for any other matter where the Committee considers they should be approved by the Council. <p>2. The grant, approval, review, refusal, revocation, renewal, transfer or variation of any licence registration, certificate, consent, permit, approval or permission, except where such function falls within the terms of reference of any other Committee or Sub-Committee or where the function has been delegated to an Officer unless the Officer refers the matter to the Committee for a decision.</p> <p>3. To exercise the Council's functions under any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer.</p> <p>4.3. To enforce byelaws.</p> <p>5.4. To advise the Council on its byelaws in relation to hackney carriage and private hire vehicles, operators and drivers.</p> <p>6. To advise the Council on its powers to make an order identifying designated places for the purposes of police powers in relation to alcohol under section 13 Criminal Justice and Police Act 2001.</p> <p>7.5. To keep under review and make minor alterations to the Committee's procedures.</p> | |

8-6. The function of determining relevant fees under section 212 of the Gambling Act 2005 be delegated to the Licensing Committee.

In exercising its functions under the Licensing Act 2003 and the Gambling Act 2005, the Committee may regulate its own proceedings and those of its Sub-Committees, subject to any Regulations made under the Acts.

Without prejudice to the generality of the foregoing, this delegation includes the licensing and registration functions set out in the first column of Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Functions determined by Statute:

1. To undertake all the functions of a licensing authority under the Licensing Act 2003 except:
 - 1.1 approving the Authority's Licensing Statement under section 5 of the Act; and
 - 1.2 referring licensing matters to another Committee under section 7(5) of the Act;

Note that, under section 7(9) of the Act, where the Licensing Committee is unable to discharge its functions because of the number of its Members who are unable to take part in the consideration of any matter or vote, the Committee must refer the matter to the Council which shall discharge it.

2. To undertake all the functions of a licensing authority under Part 8 of the Gambling Act 2005, except:
 - 2.1 approving the Authority's licensing policy under section 349 of the Act; and
 - 2.2 deciding not to issue casino licences under section 166 of the Act;

Note that, under section 7(9) of the 2003 Act as applied by the Gambling Act 2005, where the Licensing Committee is unable to discharge its functions because of the number of its Members who are unable to take part in the consideration of any matter or vote, the Committee must refer the matter to the Council which shall discharge it.

Part 2 – Contract Procedure Rules

1. Introduction and Definitions – Purpose of the Contract Procedure Rules

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
- (a) Furthers its corporate objectives
 - (b) Uses its resources efficiently
 - (c) Purchases quality goods, services and works, consistent with the priorities of the Council and which provide value for money
 - (d) Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- 1.3 These Contract Procedure Rules are made in accordance with the requirements of section 135 of the Local Government Act 1972.
- 1.4 These Contract Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Procurement Guide.
- 1.5 In these Contract Procedure Rules the following words and phrases have the following meaning:
- (a) PCR– means the Public Contracts Regulations 2015
 - (b) PCR Threshold – means the financial threshold above which PCR apply, as set out in Rule 7.4 below
 - (c) Finance Procedure Rules – means the Finance Procedure Rules set out in the Council's Constitution as updated from time to time
 - (d) Find a Tender– means the advertising platform for notices above the PCR Threshold
 - (e) LTR Services (Light Touch Regime services) - means services as defined under Schedule 3 of the Public Contracts Regulations 2015 being services to which the Light Touch Regime applies
 - (f) Procurement Guide – means the Council's Procurement Guide as updated by the Head of Procurement Service from time to time

- (g) Responsible Officer - means an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council
- (h) Scheme of Delegation - means the Scheme of Delegation set out in the Council's Constitution as updated from time to time.
- (i) E-tendering System – means the web-based system which enables the electronic despatch and receipt of Tender documents

2. General Principles – Application and Compliance with Contract Procedure Rules

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in Rule 2.3.
- 2.3 These Contract Procedure Rules do not apply to:
 - (a) Employment contracts
 - (b) Contracts relating solely to interests in land
 - (c) Contracts for retention of legal counsel, legal services or the appointment of expert witnesses in legal proceedings
 - (d) Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.

3. General Principles Applying to All Contracts

- 3.1 All purchases however small shall be made or evidenced in writing.
- 3.2 Standard contract clauses shall be used in all contracts of a value of £25,000 or more. The standard contract clauses are issued by Legal Services and can be found on the intranet.
- 3.3 As a minimum, all contracts of a value of £25,000 or more shall include clauses which set out:
 - (a) The works, supplies (goods), services, material, matters or things to be carried out or supplied
 - (b) The time within which the contract is to be performed
 - (c) Quality requirements and/or standards which must be met
 - (d) Requirements on the contractor to hold and maintain appropriate insurance

- (e) What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
- (f) Requirements on the contractor to comply with all relevant equalities and health and safety legislation

3.4 That the Council shall be entitled to terminate the contract and recover its losses in the event that the contractor, its employees or anyone acting on its behalf does anything improper to seek to influence the Council to give the contract to any person, or as to the circumstances in which a contract may be given, or any contract or commits an offence under the Bribery Act 2010 or section 117(2) Local Government Act 1972, or commits any fraud in connection with any Council contract. All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Procurement Guide.

3.5 All contracts of a value of £25,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

4. Regulatory Context

4.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:

- (a) All relevant statutory provisions
- (b) The relevant PCR principles, which are defined in the Council's Procurement Guide
- (c) The Council's Constitution including these Contract Procedure Rules, the Council's Finance Procedure Rules and Scheme of Delegation
- (d) The Council's Procurement Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, the PCR will take precedence, followed by other applicable UK legislation, then the Council's Constitution, the Council's Procurement Guide and guidelines, policies and procedures.

5. Responsibilities of Directors, Assistant Directors and Responsible Officers

5.1 Each Director shall:

- (a) be responsible for the purchasing undertaken by his/her Directorate
- (b) be accountable to the Cabinet for the performance of his/her duties in relation to purchasing
- (c) comply with the Council's decision making processes including, where appropriate, implementing and operating a Scheme of Delegation

- (d) appoint in writing an Assistant Director who shall be an authorised signatory in respect of commissioning related to that Service, subject to Rule 8 below, and who will be responsible for ensuring the correct carrying out of purchasing duties (Rule 5.3 below) of Responsible Officers within that Service
 - (e) take immediate action in the event of breach of these Contract Procedure Rules, by reporting this breach to the Corporate Director of Resources and Place Delivery who will review the breach and if it is serious will report this to the Standards and Audit Committee
- 5.2 A Responsible Officer is an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.
- 5.3 A Responsible Officer's duties in respect of purchasing are to ensure:
- (a) compliance with all Regulatory Provisions and integrity of the tender process
 - (b) compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest (including gifts and hospitality) affecting any purchasing process
 - (c) that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
 - (d) that the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings
 - (e) compliance with the Council's decision making processes
 - (f) that all contracts of a value of £25,000 or more are included on the Council's Contract Register which is maintained by Procurement Services
 - (g) that that proper records of all contract award procedure, waivers/exemptions and extensions are maintained, with separate files for each purchase of a value of £25,000 or more
 - (h) that value for money is achieved
 - (i) that advice is sought from the Corporate Director of Resources and Place Delivery as to whether adequate and appropriate security (such as a bond or guarantee), is to be taken to protect the Council in the event of non-performance, and in the case of tenders, such security to be required as part of the tender process
 - (j) that appropriate advice is sought and followed from Legal Services, Finance and Procurement Services
 - (k) that the Council's Document Retention Policy is complied with
 - (l) that for tenders above £75,000 a financial evaluation is or has been made of the financial standing of tenderers as advised by the Corporate Director of Resources and Place Delivery

- (m) that all reports seeking Cabinet approval to award a contract shall include a statement from the Responsible Officer that in their opinion, the tender process has been fair and transparent and in compliance with the relevant PCR Rules, UK legislation and these Contract Procedure Rules, or alternatively shall include a statement from the Responsible Officer which clearly sets out any anomalies that have occurred. In respect of contracts for which Cabinet approval is not required (for example, contracts under £750,000) the Responsible Officer will ensure that a similar statement is included on the relevant file

- 5.4 In considering how best to procure works, supplies and services Directors, Assistant Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and eprocurement / purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.
- 5.5 It is a disciplinary offence to fail to comply with these Contract Procedure Rules and the Council's Procurement Guide. All employees have a duty to report breaches of Contract Procedure Rules to their Director.
- 5.6 Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the relevant Director.

6. Scheme of Delegation

- 6.1 Council purchasing may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other Officers if expressly allowed to do so in the Scheme of Delegation. If allowed then the delegation should only be to Officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the Officer delegating the task and notified to the relevant Director.
- 6.2 Officers shall, where appropriate, be informed by their Director of the extent of any delegated authority and the financial thresholds set out in the Finance Procedure Rules and Contract Procedure Rules and Scheme of Delegation will apply.

7. Financial Thresholds and Procedures

- 7.1 The table below sets out the general Rules applying to the choice of purchasing procedure for contracts at the stated threshold values.
- 7.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities should be advertised by way of a public notice.
- 7.3 The public notice referred to at Rule 7.2 may take the form of a notice or advertisement in an electronic format, on an easily accessible website or other electronic media and/or in the press, trade journals or Find a Tender (the latter being required where the PCR Threshold applies). The Responsible Officer may choose to place one or more public notices in different media.
- 7.4 Table setting out financial thresholds and procedures

| Total value | Type of contract | Procedure to be used |
|---|-----------------------|--|
| Under £25,000 | supplies and services | At least one written quote in advance |
| £25,000 to £74,999 | supplies and services | At least three written quotes in advance (making use of available national and local frameworks as advised by Procurement Services) |
| £75,000 to £189,330 <u>£213,477**</u> | supplies and services | At least two written tenders in advance, following advertisement by public notice, Competitively advertised tender, in accordance with advice from Procurement Services, <u>and</u> Legal Services <u>and</u> Finance |
| £189,330 <u>£213,477**</u> plus | supplies and services | <p>PCR Rules apply – full competitive process following advertisement in Find a Tender for supplies and non LTR services*.</p> <p>For contracts relating to LTR services above the £663,540-→ (<u>inclusive of VAT</u>) threshold, certain mandatory requirements will apply under PCR. For contracts falling below £663,540 (<u>inclusive of VAT</u>) there is a presumption in favour of advertising and a competitive process</p> <p>Either of the above are to be carried out in accordance with advice from Procurement Services, Legal Services and Finance</p> |

* For the purposes of PCR LTR services are defined separately and PCR apply to a different degree

** The PCR Threshold for supplies and services or relevant threshold in force at the time under the regulations. When calculating the estimated value of the contract to determine whether the PCR regulations apply, the contract value estimation shall be inclusive of VAT.

| Total value | Type of contract | Procedure to be used |
|---------------|------------------|---------------------------------------|
| Under £25,000 | Works | At least one written quote in advance |

| Total value | Type of contract | Procedure to be used |
|---|------------------|--|
| £25,000 to £499,999 | Works | At least three written quotes in advance (making use of available national and local frameworks as advised by Procurement Services) |
| £500,000 to £4,733,252 <u>£5,336,937**</u> | Works | Full competitive process with tenders following advertisement by public notice works, and <u>Competitively advertised tender</u> in accordance with advice from Procurement Services, <u>and</u> Legal Services and Finance |
| Over £4,733,252 <u>£5,336,937**</u> | Works | PCR apply – full competitive process with tenders following Find a Tender advertisement, and in accordance with advice from Procurement Services, Legal Services and Finance |
| ** PCR Threshold for works or relevant threshold in force at the time under the regulations. <u>When calculating the estimated value of the contract to determine whether the PCR regulations apply, the contract value estimation shall be inclusive of VAT.</u> | | |

Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the PCR to services contracts.

The relevant Chief Officer/Director shall define the level of advice and service which Responsible Officers will be required to seek from the Procurement Service or other third party, having reference to specified financial thresholds, and will publish this in a scheme which he or she will update from time to time.

7.5 Where contracts are of a type and value which means that they are subject to the PCR Rules then there are six types of PCR procedures available. These are the open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership and negotiated procedure without prior publication. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of PCR procedure must be sought in the first instance from Procurement Services and if required from Legal Services

7.6 For contracts of £25,000 and above there are requirements to publish notices on Contracts Finder. Officers will ensure advice is obtained from Procurement Services.

8. Financial Thresholds and Processes for Approval and Execution of Contracts

8.1 Subject to the Finance Procedure Rules and provisions within the Council's Constitution regarding key decisions, Officers must obtain approval to proceed to tender, approval to award a contract, and approval in respect of any waivers or extension, in writing from:

- (a) Cabinet or a Cabinet Member having the delegated power (referred to below as the Delegated Cabinet Member) to do so, for contracts above a value of £750,000.
- (b) a Director acting in conjunction with the Cabinet Member who holds the relevant portfolio, up to a contract value of £750,000, the power to be exercised personally by the Director and Cabinet Member and not his/her delegate where the value exceeds £350,000
- (c) a Director up to a contract value of £500,000 the power to be exercised personally by the Director and not his/her delegate where the value exceeds £350,000
- (d) An Assistant Director up to a value of £350,000 the power to be exercised personally by the Assistant Director and not his/her delegate
- (e) a Director or Assistant Director where:
 - (i) the Delegated Cabinet Member has been consulted by means of a written report; and
 - (ii) the written report sets down the nature of the contract, the tenders received and a recommendation as to the course of action proposed; and
 - (iii) the Delegated Cabinet Member has signified in writing his/her approval to the course of action proposed

8.2 All applications for approvals to proceed to tender must be:

- (a) Fully documented
- (b) Append a commissioning report (a "Stage 1" report) in an approved format to be submitted in advance to either the Cabinet, Cabinet Member or to the relevant Director or Assistant Director in accordance with Rule 8.1 above and which shall set out the following:
 - (i) an appropriate and proportionate business case setting out the commissioning need and costings
 - (ii) a draft specification detailing the quality required that is proportionate to the priorities of the Council
 - (iii) appropriate project management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004) and proposed project management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed procurement

- (iv) appropriate contract management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004), arrangements for post-contract evaluation, and proposed contract management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed contract
 - (v) confirmation from Legal Services, Procurement Services and Finance that they have been consulted and agree with the commissioning report in so far as it relates to those respective fields
 - (vi) confirmation that the requirements of Rule 5 above has been or will be met
- (c) In addition to the above, where the application is for the approval to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application must also include written authorisation from the Corporate Director of Resources and Place Delivery, provided that such authorisation is compliant with the requirements of the Public Contract Regulations 2015, and which will set out one of the following grounds for the authorisation:
- (i) it is known (not assumed) that only one supplier can meet the requirement
 - (ii) Continuity of knowledge or synergy with previous work is an overriding consideration;
 - ~~(iii)~~ (iii) The Council has received an unsolicited proposal that contains ideas or concepts in respect of which the intellectual property is owned exclusively by the proposed single tenderer, that the Council wishes to use because it meets immediate needs
 - ~~(iii)(iv)~~ (iv) The Council urgently needs to meet its statutory obligations.
- (d) In addition to the above, in cases where an officer preparing a Cabinet Report seeking approval to proceed to tender also makes a recommendation that Cabinet delegated the authority to make the subsequent decision to award a contract, the rationale for this should be made clear to Cabinet to allow them to make an informed decision to so delegate. Officers should word any request for a delegation of authority such that Cabinet members are "asked to consider" whether the delegation should be given, so that Cabinet may actively decide whether or not to grant it having regard to the rationale provided.

8.3 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Procedure Rules ensure, in particular, that:

- (a) the appropriate approvals, including approval to proceed to tender and approval to award the contract, have been obtained to authorise that decision; and

- (b) where appropriate, a standstill period complying with PCR is incorporated into the final award process
- 8.4 Any contracts valued at £150,000 or above shall be executed as a deed. All other contracts may be signed by Officers with appropriate delegated authority.
- 8.5 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the appropriate Director or his delegate.
- 8.6 In the case of major projects and complex procurements (e.g., involving the procurement of frameworks or use of the competitive dialogue, innovation partnership or the competitive procedure with negotiation) the relevant Director and Assistant Director should follow advice from Procurement Services, Legal Services and Finance as to whether:
- (a) a project specific scheme of delegation should be sought and approved by Cabinet (for example, delegating powers of approval to a Delegated Cabinet Member) at the beginning of the commissioning process in order to ensure timely approvals at key stages of the procurement process
 - (b) a proportionate gateway review process ~~(as described in the Procurement Guide)~~ should be utilised
- 8.7 In conjunction with Finance Procedure Rules, in the case of a civil emergency brought about by events unforeseeable by, and not attributable to the Council, and requiring an immediate response in order to protect the Council or its residents, the relevant Director may, upon receiving the consent of the Chief Executive and upon notifying the Corporate Director of Resources and Place Delivery, where it is strictly necessary:
- (a) authorise the entry into contracts above £750,000 on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 8.2 above) to be submitted by the Director or the relevant Assistant Director to Cabinet at either the next available Cabinet meeting or the Cabinet meeting following, and
 - (b) authorise the entry into contracts up to £750,000 on an immediate basis, receiving if possible one written quote in advance from the proposed contractor, with a full report (following where relevant the format set out in Rule 8.2 above) to be submitted by the relevant Assistant Director or Responsible Officer to the Director as soon as practicable.

9. Calculating the Contract Value

- 9.1 The starting point for calculating the contract value for the purposes of these Contract Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).
- 9.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of PCR and/or these Contract Procedure Rules.

9.3 The PCR cover contracts which, individually, are below the stated PCR threshold but which constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the PCR where they envisage that they may require repeat purchases and/or purchases of a similar type.

10. Principles Underlying Tendering Processes and Tender Evaluation

10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure that the following is secured:

- (a) Sufficient time is given to plan and run the process
- (b) Equal opportunity and equal treatment
- (c) Openness and transparency
- (d) Probity
- (e) Outcomes which deliver sustainability, efficiency and cost savings (where appropriate).

11. Submission and Opening of tenders

11.1 An Invitation to Tender shall be issued by the Council for all service or supply contracts over £75,000 or works contracts over £500,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.

11.2 All invitation to Tenders (including invitation to quote for Procurements exceeding £25,000) shall be issued and received utilising the Council's e-tendering system. Tenders will be retained unopened until after the date and time specified for receipt of tender in the invitation to tender. In exceptional circumstances (in agreement with the Head of Procurement service tenders may be (received electronically, to which Rule 11.3 shall apply)

11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:

- (a) addressed to the e-mail address as notified in the Invitation to Tender
- (b) in the format specified in the Invitation to Tender
- (c) stored in a secure mailbox controlled by Procurement Services, which requires a code or other appropriate security measure, to open it
- (d) retained unopened until after the closing date and time specified for receipt of tender

11.4 No tender received after the closing time and date specified for receipt of tenders shall be accepted or considered by the Council unless the relevant Director in consultation with the Head of Procurement Service is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply, and the other tenders have not been opened.

- 11.5 Tenders shall be opened by the relevant Director or nominee working in conjunction with Procurement Services after the closing date and time specified for receipt of tenders in the invitation to tender.
- 11.6 If it is necessary that the period of time for submitting tenders be extended, this should be communicated to all tenderers in writing in a fair and equal manner.

12. Evaluation of Quotes and Tenders

- 12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenderers.
- 12.2 Tenders subject to the PCR shall be evaluated in accordance with the PCR Rules.
- 12.3 Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents best value for money or where the contract value exceeds the PCR threshold on the basis of the most economically advantageous tender to the Council and not on the basis of lowest price.
- 12.4 Tenders received in an incomplete form must be evaluated in accordance with the Invitation to Tender documents as set out in the Procurement Guide.

13. Waivers

- 13.1 The requirement for the Council to conduct a competitive purchasing process for contracts in excess of £25,000 may be waived in the following circumstances:
- (a) For contracts which are not subject to the PCR, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury, ~~or~~ damage to property or breach of the Council's statutory obligations and duties; or
 - ~~(b) — the circumstances set out in PCR 14 apply (whether or not the contract is of a type which is subject to the application of the PCR Rules); or~~
 - ~~(e)(b) the contract is a direct awarded under a Purchasing Scheme, a Framework or tender process where a direct award is allowed under the procurement rules and legislation of a type where a competition has already been undertaken on behalf of the Council; or~~
 - ~~(d)(c) subject to the Public Contracts Regulations 2015 at the discretion of the relevant Director who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing~~
- 13.2 A Responsible Officer who seeks a waiver of Contract Procedure Rules, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Procedure Rules is set out in the Council's Procurement Guide.

13.3 All waivers from these Contract Procedure Rules must be:

- (a) Fully documented
- (b) Subject to a written report in an approved format to be submitted in advance in accordance with Rule 8.1 (Approval) to Cabinet, Cabinet Member or to the relevant Director or Assistant Director. The report shall include reasons for the waiver which demonstrate that the waiver is genuinely required
- (c) Subject to written approval in advance (in the approved format) in accordance with Rule 8.1 (Approval) by Cabinet, the Cabinet Member or the relevant Director, Assistant Director, Section 151 Officer or Procurement Service who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
- (d) where the waiver is being sought in order to seek a tender from a single source, or to obtain a single tender from the one tenderer only, the application for approval will be brought in accordance with Rule 8.2 above

13.4 Notice of award of all contracts with a value of £25,000 or above must be published on Contract Finder.

13.5 All decisions on waivers must take into account:

- (a) Probity
- (b) Best value/value for money principles.

13.6 For contracts subject to the PCR, any waiver from the requirement for competition must meet the conditions set out in the PCR in addition to the general requirements above.

13.7 A waiver shall not be applied for reasons of poor contract planning.

14. Extensions to Existing Contracts

14.1 Where extensions to existing contracts are made, the extensions must be determined in accordance with the contract terms or agreement of the parties, for a specified period and made in accordance with the principles set out in the Council's Procurement Guide and the Public Contracts Regulations 2015 as applicable. Extension of existing contracts shall include modification and variation of contracts.

14.2 Any extension must be:

- (a) Fully documented
- (b) Subject to a written report in an approved format to be submitted in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or the relevant Director or Assistant Director. The report shall include reasons for the extension which demonstrate that the need for the extension is genuinely exceptional
- (c) Subject to written approval in advance (in the approved format) in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or by the relevant

Director or Assistant Director, who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional.

14.3 Any extension must take into account:

- (a) Probity
- (b) Best value/value for money principles.

14.4 For contracts subject to PCR, any extension must meet the conditions set out in Regulation 72 of the Public Contracts Regulations 2015 in addition to the more general requirements set out above.

15. Purchasing Schemes (including Framework Agreements)

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Procurement Guide.

15.2 Responsible Officers must check in advance that

- (a) The Council is legally entitled to use the Purchasing Scheme
- (b) The purchases to be made do properly fall within the coverage of the Purchasing Scheme
- (c) The establishment and operation of each Purchasing Scheme is in compliance with the PCR (where they apply) and meets the Council's own requirements.

16. Review and Changes to these Contract Procedure Rules

16.1 These Contract Procedure Rules shall be reviewed and updated on a regular basis. Save in the case of revisions to the PCR Thresholds in Rule 7, amended Contract Procedure Rules shall be agreed and adopted by the Council by resolution following the consideration of a Cabinet Report brought by the Section 151 Officer and Corporate Director of Resources and Place Delivery in consultation with the Assistant Director of Law and Governance and Head of Procurement Service. Revisions to the PCR Thresholds shall be dealt with in accordance with the Scheme of Delegation.