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SOUTHEND-ON-SEA CITY COUNCIL

**Standards Committee**

**Date: Tuesday, 10th September, 2024**

**Time: 5.00 pm**

**Place: Committee Room 4 - Civic Suite**

**Contact: Tim Row (Principal Democratic Services Officer)**

**Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**A G E N D A**

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Minutes of the meeting held on Tuesday, 16th July 2024 (Pages 3 - 4)**
- 4 Minutes of the Meeting held on Wednesday, 31st July 2024 (Pages 5 - 6)**
- 5 Constitution Review Stage 2 Agreement on Drafting Parts 1 and 2 of the Work Programme and Consideration of Parts 3 and 4 of the Work Programme (Pages 7 - 144)**

**TO: The Chair & Members of Standards Committee:**

Councillor K Robinson (Chair),

Councillors P Collins (Vice-Chair), K Buck, J Courtenay, J Moyies, K Murphy, S Nadeem,  
M O'Connor and M Terry

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# Public Document Pack

## SOUTHEND-ON-SEA CITY COUNCIL

### Meeting of Standards Committee

**Date: Tuesday, 16th July, 2024**  
**Place: Committee Room 6 - Civic Suite**

# 3

**Present:** Councillor K Robinson (Chair)  
Councillors P Collins (Vice-Chair), C Campbell\* J Moyies, S Nadeem,  
and M O'Connor,  
J Morgan and J Tetley  
(\*Substitute in accordance with Council Procedure Rule 40.)

**In Attendance:** Councillors D Cowan  
S Zeiss, C Gamble and R Harris

**Start/End Time:** 2.00 pm - 3.25 pm

#### **1 Apologies for Absence**

Apologies for absence were received from Councillors S Allen, K Buck, J Courtenay (substitute: Cllr Campbell) and M Terry.

#### **2 Declarations of Interest**

There were no declarations of interest at this meeting.

#### **3 Minutes of the Meeting held on Wednesday, 8 March 2023**

Resolved:

That the Minutes of the Meeting held on Wednesday, 8 March 2023 be confirmed as a correct record and signed.

#### **4 Report of Monitoring Officer on Review of Council Constitution (Principles)**

The Committee considered a report of the Executive Director (Strategy and Change) presenting for consideration the principles for a review of the Council's Constitution and the timeline for the preparation of a refreshed constitution for adoption by the Council for consideration.

On consideration of the report the Committee discussed the principles, workplan and timeline and made the following comments:

- A review of the whole constitution was a priority.
- The revised constitution must be simple, accessible and easy to understand for everyone (Councillors, officers and the public).
- The review must be member-led and all Councillors should be engaged in the process.

- The format should follow the modern themed approach.
- Noted the challenging timescales to complete the review by December 2024.

Resolved:

1. That a review of the constitution in accordance with the indicative timescales, as set out in the submitted report, be approved.

2. That the following principles which will form the basis of the review, be approved:

- Plain English
- Simple and accessible
- Transparent
- Member-led
- Efficient decision making.

2. That the style and structure for the refreshed constitution be based on the modern themed approach.

3. That the meeting of the Standards Committee on 31<sup>st</sup> July 2024 review Part 1 and Part 2 of the constitution and subsequent meetings consider drafts of each constituent part of the refreshed constitution sequentially.

**Chair:** \_\_\_\_\_

# SOUTHEND-ON-SEA CITY COUNCIL

## Meeting of Standards Committee

**Date: Wednesday, 31st July, 2024**  
**Place: Committee Room 1 - Civic Suite**

# 4

**Present:** Councillor K Robinson (Chair)  
Councillors P Collins (Vice-Chair), Sam Allen\*, K Buck,  
N Folkard\*, J Moyies and S Nadeem  
(\*Substitute in accordance with Council Procedure Rule 40.)

**In Attendance:** Councillors D Cowan and I Gilbert  
S Zeiss, J Chesterton and T Row

**Remote Attendees:** Councillor Terry and C Ward (Anthony Collins Solicitors)

**Start/End Time:** 4.00 pm - 6.55 pm

### 5 Apologies for Absence

Apologies for absence were received from Councillors Courtenay (substitute: Councillor Folkard), O'Connor (substitute: Councillor Sam Allen) and Murphy (no substitute).

### 6 Declarations of Interest

No interests were declared at the meeting.

### 7 Report of Monitoring Officer on Constitution Review Stage 2: Consideration of Parts 1 and 2 of the Work Programme

The Committee received a report of the Executive Director (Strategy & Change) that presented the first draft Part 1 (Summary and Explanation and Public Participation) and Part 2 (The Council) of a new proposed Constitution for Southend on Sea City Council. Copies of these were attached to the submitted report at Appendices C, D and E.

The Committee was informed that the documents were in an initial draft form and would be amended to reflect the processes and procedures at Southend on Sea City Council. Any typographical errors etc. would also be picked up at that stage.

The Committee welcomed the first draft documents and discussed them in detail and asked a variety of questions. The Committee also made numerous comments and identified a number of suggested revisions and possible alternative wording to various sections. These were duly noted and would be incorporated where appropriate and necessary for consideration by the Committee at its next meeting taking place on 10<sup>th</sup> September 2024. Consideration of Section 5 (The Budget and Policy Framework Procedure Rules) within (Part 2 (The Council) was, however, deferred until the next meeting of the Committee taking place on 10<sup>th</sup> September 2024.

Resolved:-

1. That, subject to the comments made at the meeting, the first draft Part 1 (Summary and Explanation and Public Participation) of a new proposed constitution for Southend-on-Sea City Council as set out in Appendix D to the submitted report be noted and that officers make any amendments and/or additions as appropriate based on those comments to be drafted for further review at the next meeting of Committee taking place on 10 September 2024.
2. That, with the exception of Section 5 (Budget and Policy Framework Procedure Rules) and subject to the comments made at the meeting, the first draft Part 2 (The Council) of a new proposed constitution for Southend-on-Sea City Council as set out in Appendix E to the submitted report be noted and that officers make any amendments and/or additions as appropriate based on those comments to be drafted for further review at the next meeting of Committee taking place on 10 September 2024.
3. That consideration of the initial draft of Section 5 (The Budget and Policy Framework Procedure Rules) of (Part 2 (The Council) be deferred until the next meeting of the Committee taking place on 10<sup>th</sup> September 2024.
4. That officers bring the first drafts of the new proposed constitution as described in Part 3 (Committees) and Part 4 (The Executive and Joint Arrangements) of the work programme for consideration by Committee to its next meeting to be held on 10 September 2024.

**Chair:** \_\_\_\_\_

<b>Meeting:</b>	Standards Committee
<b>Date:</b>	10 September 2024
<b>Classification:</b>	Part 1
<b>Key Decision:</b>	No
<b>Title of Report:</b>	Constitution Review Stage 2 Agreement on Drafting Parts 1 and 2 of the Work Programme and Consideration of Parts 3 and 4 of the Work Programme
<b>Executive Director:</b>	Claire Shuter
<b>Report Author:</b>	Susan Zeiss
<b>Executive Councillor:</b>	Cllr Daniel Cowan, Cabinet Member for Constitutional Affairs

## **1. Executive Summary**

- 1.1. At the meeting of Standards Committee on 31 July 2024, Committee considered Part 1(Summary and Explanation and Public Participation) and Part 2 (The Council) of the proposed new constitution for Southend-on-Sea City Council.
- 1.2. Committee debated and reviewed the provisions presented by Officers and requested amendments and adjustments to be drafted for review at this meeting.
- 1.3. Committee deferred consideration of the following section of Part 2, namely the Budget and Policy Framework Procedure Rules) to its next meeting to be held on 10 September 2024.
- 1.4. Committee also agreed to consider Parts 3 (Committees) and Part 4 (the Executive) at its next meeting.
- 1.5. This work constitutes the ongoing Stage 4 (Drafting) of the agreed Work Programme.

## **2. Recommendations**

**It is recommended that Committee:**

- 2.1 Notes the summary of suggested drafting amendments made by Committee at its meeting on 31 July and attached as Appendix A;**
- 2.2 Reviews and agrees the amended drafting by officers of Part 1 (Summary and Explanation and Public Participation) of the proposed new Constitution as set out in Appendix B to this report; and**

- 2.3 **Reviews and agrees the amended drafting by officers of Part 2 (The Council) of the proposed new Constitution as set out in Appendix C to this report; and**
- 2.4 **Considers the draft of Part 2 (The Council) sections on the Budget and Policy Framework Rules deferred from the meeting held on 31 July 2024 as set out in Appendix D to this report and directs officers as to any amendments and/or additions it wishes to be drafted for further review at the next meeting of Committee on 7 October 2024;**
- 2.5 **Considers the first draft Part 3 (Committees) of a new proposed constitution for Southend-on-Sea City Council as set out in Appendix E to this report and directs officers as to any amendments and/or additions it wishes to be drafted for further review at the next meeting of Committee on 7 October 2024;**
- 2.5 **Considers the first draft Part 4 (The Executive) of a new proposed constitution for Southend-on-Sea City Council as set out in Appendix F to this report and directs officers as to any amendments and/or additions it wishes to be drafted for further review at the next meeting of Committee on 7 October 2024; and**
- 2.6 **Agrees that officers bring the first drafts of the new proposed constitution as described in Part 5 (Overview and Scrutiny) of the Work Programme for consideration by Committee to its next meeting to be held on 15 October 2024.**

### **3. Background**

- 3.1 Standards Committee agreed at its meeting on 16 July 2024 to recommend to Council that the constitution follow the style and format of the modern style constitution, where the sections are grouped into themes which follow the functions of the council.
- 3.2 Officers have therefore divided all the required component parts of a constitution including both those required by law and those over which the Council has a discretion into parts as described in the work programme. First drafts of suggested new provisions will be brought before Committee in sequence, first for direction as to the requested drafting of provisions and thereafter at a following meeting, for that drafting to be approved by Committee for onward recommendation to Council.
- 3.3 As part of the ongoing work of the Committee to review the constitution, this report brings before Committee for consideration:
  - 3.3.1 A draft of Part 1 (Summary and Explanation and Public Participation) (**Appendix B**) of the Work Programme, which has taken into account the direction and comments from Committee give at the meeting on 31 July 2024 and summarised in **Appendix A**; and



- 3.3.2 A draft of Part 2 (The Council) of the Work Programme (**Appendix C**), which has also taken into account the wishes of Committee as agreed on 31 July 2024 and summarised in **Appendix A** to this report; and
- 3.3.3 Suggested provisions for the section of Part 2 (The Council) which Committee deferred from its last meeting on 31 July, namely the Budget and Policy Framework Procedure Rules contained in **Appendix D** to this report; and
- 3.3.4 Suggested provisions for the constitution and working of all the Council's Committees which together make up Part 3 of Stage 4 of the Work Programme ; namely

- The Committee Structure
- The Committee Procedure Rules
- Development Control Committee Specific Procedure Rules
- Regulatory Committees
- Standards Committee
- General Purposes Committee
- Audit & Governance Committee
- Pension Fund Committee
- Health & Wellbeing Board Committee
- Senior Appointments and Pay Committee

which are contained in **Appendix E** to this report;  
and

- 3.3.5 Suggestions for a description the Executive (the Cabinet) for Southend-on-Sea City Council and containing the rules for how Cabinet works set out in **Appendix F** to this report.

#### **4. Reasons for Decisions**

Council agreed on 13 June 2024 to undertake a complete review and rewrite of its constitution.

#### **5. Other Options Considered**

- 5.1 The Council must have a constitution by law. Not having a complaint constitution is not an option that can be followed.
- 5.2 The option to amend the existing constitution in part only was discounted as it presented to great a risk of inconsistencies and inaccuracies remaining in the document. In addition, the style and format of the existing constitution required complete revision and modernisation, which would be difficult to achieve if only some parts were amended.

#### **6. Financial Implications**

At this stage there are no additional financial implications from the proposals contained within this report.

## 7. Legal Implications

It is a requirement of the Local Government Act 2000 that the Council has a constitution, there is a risk that the constitution in its current form may give rise to legal challenges about the Council's governance framework and decision-making procedures.

## 8. Equalities

There are no known Equalities impacts at this stage.

## 9. Consultation

9.1 Consultation with Members will be undertaken through the Standards Committee, which is a cross-party committee of Council, as well as engagement and training sessions with all councillors. The Committee will also invite suggestions and contributions from all councillors in advance of the Committee considering draft provisions.

9.2 There will be consultation with officers through engagement with all services through the drafting, decision-making and training processes.

## 10. Appendices

**10.1 Appendix A:** Summary of comments and directions from Standards Committee at the 31 July 2024 Meeting.

**10.2 Appendix B:** Amended draft of Part 1 (Summary and Explanation)

**10.3 Appendix C:** Amended draft of Part 2 (The Council – except for section on the Budget and Policy Framework Procedure Rules)

**10.4 Appendix D:** First Draft Part 2 (The Council) sections Budget and Policy Framework Procedure Rules.

**10.5 Appendix E:** First draft Part 3 (Committees)

**10.6 Appendix F:** First draft Part 4 (The Executive)

## 11. Report Authorisation

This report has been approved for publication by:		
	Name:	Date:
S151 Officer	Joe Chesterton	
Monitoring Officer	Susan Zeiss	
Executive Director(s)	Claire Shuter	
Relevant Cabinet Member(s)	Cllr Daniel Cowan	

**Comments from Standards Committee**

**31 July 2024**

General Comments

The draft is taken from Liverpool and Buckinghamshire Councils and will need to be amended to reflect Southend's requirements.

Typographical errors and use of language will be addressed in the final draft.

- **Page 38 – Placeholder for Decision-Making and Key Decisions**  
Currently £250k threshold – Southend's limit is very low in comparison to other local authorities and needs to be reviewed following conclusion of Joe Chesterton's survey of other local authorities. Consideration needs to be given how this threshold should be set. Perhaps the Leader and relevant Cabinet Member could decide this level on an annual basis. Due diligence and appropriate checks are required before increasing the limits

APPENDIX D – Summary & Explanation

1 – Summary and Explanation

- **Page 31 – Paragraph 1.12**  
The relevant eligibility criteria prescribed by the Electoral Commission should be reflected here
- **Page 32 – Paragraph 1.15**  
Consideration needs to be given to timing of Mayor Making and Appointments of Committees. Must fulfil requirements for the AGM. Perhaps have ceremonial Mayor Making in the morning or day prior to Appointments meeting.
- **Page 32 – Paragraph 1.19**  
Mentions up to 2 deputy leaders but in paragraph 4.11.7(c) (page 59) mentions appointment of one Councillor as deputy leader
- **Page 33 – Paragraph 1.24**  
Cabinet must hear what the Overview & Scrutiny Committee has to hear – This needs to be formalised. Perhaps the views should be documented and/or the Chair of the Scrutiny Committee should attend Cabinet as appropriate to present the views of the Scrutiny Committee. The response of Cabinet should also be reported back to Scrutiny. Also, reference up from Scrutiny to Council is no longer exists at Southend. (Points to be addressed in the Overview & Scrutiny Procedure Rules).

- **Page 33 – Paragraph 1.28**  
Composition of Committees should be proportionate where practicable rather or typically proportionate rather than generally proportionate.
- **Page 33 – Paragraph 1.30**  
The reference to Committee Councillors should be Members of the Committee.
- **Page 34 – Paragraph 1.32**  
Each Ward being represented by one or more elected Councillors. Subject to the outcome of the review by the Boundary Commission, this should say up to three elected Councillors.
- **Page 36 – Paragraph 1.48**  
Minor amendments in line with changes in the legislation can be made by the Monitoring Officer. Should other minor amendments be made by the Monitoring Officer in consultation with the Leader and/or Group Leaders

### 2 – Public Participation

- **Page 36 – Paragraph 2.9**  
Consultation by Council needs rewording. The reference to consulting as wide as possible is not appropriate. Consider using as wide as practicable.
- **Page 37 – Paragraph 2.12**  
Consideration needs to be given how the involvement of the public in budget and policy development is undertaken e.g. Havering Council.

### 4. Access to Information Procedure Rules

- **Page 39 – Paragraphs 4.2 and 4.3**  
Wording of these need simplifying whilst still reflecting the relevant legislation. If the wording is taken from the legislation perhaps consider the use of footnotes or asterisks to ensure accessibility by anyone with visual impairments.
- **Page 46 – Paragraph 4.40**  
The wording regarding confidential meetings/items of business needs to be reviewed to reflect practicalities. Meetings should all be held in public except when confidential matters are being considered. There seems little point in allowing the public to a meeting for procedural matters eg apologies, declarations and approval of minutes only then to be excluded from the main item(s) of confidential business.

- **Page 47 – Paragraph 4.48**  
Access to information by Councillors on Overview and Scrutiny Rules will be dealt with as part the Overview & Scrutiny Procedure Rules.

### 5. The Petitions Scheme

- **Page 50 – Paragraph 5.2**  
Is 10 signatures an appropriate number for a petition to be identified as a petition? Perhaps 20?
- **Paragraphs 5.8-5.12**  
Consideration should be given to the threshold when dealing with petitions. Currently any petitions under 100 signatures are referred to the relevant Executive Director to respond to. Any petitions over 100 signatures are referred to Cabinet, Cabinet Committee or relevant Scrutiny Committee as appropriate. When petitions are referred to the Executive Director, the Ward Councillors should be informed of the outcome. The Petitions Officer is the Head of Democratic Services. What happens if petitions are refused as being eligible? Is there any appeals process? This needs clarifying
- **Page 52 - Paragraph 5.15**  
Reference to Purdah needs to be removed.

## APPENDIX E – Part 2 The Council

### 1. The Council

- **Page 53 – Paragraph 1.2**  
This paragraph needs rewording. Councillors are “typically” elected for a 4 year term. There are some occasions when this is not the case
- **Page 53 – Paragraph 1.6.14**  
The appointment of Freeman of the City needs to be included.

### 2. The Role of Councillors

- **Page 56 – Paragraph 2.6**  
Consideration should be given as to whether the deputy Mayor should not be a member of the Overview & Scrutiny Committees. Whilst best practice is for them not to be a member of these committees, it is permitted under the legislation. It may cause difficulties when appointing to Committees for some groups

### 3. The Budget & Policy Framework

- **Page 57 – Paragraph 3.1**  
Check if the Local Plan may need to be included in this as well as any other policies/plans of the Council

### 4. The Council Procedure Rules

- **Page 60 – Paragraph 4.14**  
Consideration needs to be given to the timing/length of speeches, particularly for unaligned independent Councillors. This has been the subject of discussion previously and timings agreed. Perhaps a review of those discussion/notes should be undertaken if possible.
- **Page 62 – Paragraphs 4.22 and 4.23**  
These paragraphs regarding the Amendment to the Budget and Council Tax need to be reworded. The appropriate wording will be provided at the meeting on 10<sup>th</sup> September by the S.151 Officer..
- **Page 62 – Paragraph 4.25.1**  
Can an email from the Councillors confirming their support be accepted or is a photo/scan of a physical signature required?
- **Page 62 – Paragraph 4.31**  
Commencement time of Council Meetings should be 6.30pm not 5.00pm and held at the Civic Centre rather than Town Hall.
- **Page 63 – Paragraph 4.37**  
Length of Extraordinary meetings should be extended to 90 minutes
- **Page 64 – Show of Hands**  
Electronic voting is used rather than show of hands.
- **Page 65 – Paragraph 4.57**  
Councillors may stand to vote if they wish but should not be required to.
- **Page 66 – Public Speaking Time**  
Are statements from members of the public to be introduced at Southend?  
Should include questions from members of the public here. The length of questions and the responses needs to be restricted in terms of the number of words.
- **Page 67 – Paragraph 4.84**

When asking a supplementary question, members of the public will not be aware of its relevance if they don't have access to the written response. This needs to be addressed. The number and length of questions and the responses needs to be restricted in terms of the number of words. Perhaps if two questions are submitted only one will be taken unless there is sufficient time after the first questions have been responded to.

- **Pages 70 and 71 – Paragraphs 4.102 and 103**

This should refer to a Motion to Remove the Leader and not a motion of no confidence

- **Page 77 – Paragraphs 4.158 to 4.160**

Councillor Misconduct during meetings. Perhaps reference to the expectation to adhere to the Nolan Principles should be added here.

Part 5. The Budget and Policy Framework

- **This section will be deferred for consideration at the next meeting.**

Part 6. The Honorary Alderman Scheme

- **Page 86 – Withdrawal of Title Rights and Privileges**

If the privilege of Honorary Aldermen is withdrawn, there should be no automatic entitlement to re-instatement of it.

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## Part 1 Summary & Explanation and Public Participation

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### 1. SUMMARY AND EXPLANATION

#### The Constitution

1.1 This Constitution sets out how Southend-on-Sea City Council operates and is governed to support the Councils' corporate aims, objectives and priorities for the benefit of those who live, work and study in the city. It sets out:

- 1.1.1 Who is responsible and accountable for the Council's decisions;
- 1.1.2 How the Council makes decisions and delivers services;
- 1.1.3 How the Council ensures decision-making is open and transparent;
- 1.1.4 The standards by which Councillors and the Officers who work for the Council must conduct themselves.

1.2 The purpose of this Constitution is to:

- 1.2.1 Enable the Council to provide visible, accountable, and effective leadership;
- 1.2.2 Enable the Council's decisions to be lawful and deliver best value having regard to its legal duties policies, procedures and ethical standards;
- 1.2.3 Create an effective system of checks and balances on the exercise of the Council's decision-making powers;
- 1.2.4 Promote transparency and open decision-making including the provision of clear and lawful reasons when decisions are made in private, or documents are not available to the press and public.
- 1.2.5 Help Councillors to effectively represent and support their constituents and the whole city;
- 1.2.6 Encourage the involvement of citizens in Council decision-making;
- 1.2.7 Allow Officers to make decisions to ensure the most effective delivery of services and efficient and effective use of the Council's resources.

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

1.4 This Constitution complies with the requirements of the Local Government Act 1972, the Local Government Act 2000 (as amended) and the Local Government Act 2000 (Constitutions) (England) Direction 2000.

#### Residents' Rights

1.5 The Council welcomes the participation of residents in its work as set out below at Section 2. Residents also have a number of rights in their dealings with the Council,

some of which are legal rights whilst others depend on the Council's processes and procedures.

1.6 Residents have the right to:

- 1.6.1 Vote at local elections provided they are registered and eligible to vote;
- 1.6.2 Contact their Ward Councillor about any matters of concern to them in their Ward;
- 1.6.3 Contact the appropriate Cabinet Member about any matters of concern that relate to the Cabinet Member's portfolio;
- 1.6.4 Have access to this Constitution;
- 1.6.5 Attend all meetings of the Council, Cabinet, Overview and Scrutiny Committee, and other Committees except where exempt or confidential matters are being discussed (these are explained in the Access to Information Procedure Rules set out below at Section 4);
- 1.6.6 Petition the Council on any matter relevant to the Council;
- 1.6.7 Find out what major decisions (referred to as "Key Decisions") are to be discussed by the Cabinet, and what decisions are likely to be taken by Cabinet in a private session and when;
- 1.6.8 See reports and background papers, and any record of decisions made by the Council, Cabinet, Overview and Scrutiny Committee and other Committees, and decisions made by Officers (except where exempt or confidential information is included);
- 1.6.9 Complain to the Council through its complaints procedure about something they think the Council should have done that it has not done, something it should have done differently, or something it has not done that it should have;
- 1.6.10 Complain to the Local Government and Social Care Ombudsman after using the Council's own complaints process if they think the Council has not followed its complaints procedures properly;
- 1.6.11 Compliment the Council where the service they have received has been exceptionally good or speedy, and which could help spread good practice throughout the Council;
- 1.6.12 Complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor (including a Town or Parish Councillor) has not followed their relevant Code of Conduct for Councillors;
- 1.6.13 Complain to the Council about any Officers' actions or attitude;
- 1.6.14 Inspect the Council's accounts during the limited period of the audit each year, and make their views known to the external auditor. The period when accounts are open to inspection is publicised in advance on the Council's website.

## Residents Responsibilities

- 1.7 When participating in meetings, or in their dealings with the Council, residents must:
  - 1.7.1 Not be disruptive, violent, abusive or threatening to Councillors or Officers;
  - 1.7.2 Not wilfully damage property owned by the Council, Councillors or Officers; and;
  - 1.7.3 Comply with any procedural rules applicable to public participation and the rulings of the Chair of any meeting.
- 1.8 When contacting or in contact with the Council, Councillors or Officers, residents must not be abusive, violent or act in a threatening way.
- 1.9 Subject to any legal provision, the Council has a right to consider the proportionate use of its finite human and other resources when corresponding with residents.
- 1.10 The Council has a duty of care and right to protect its Councillors and Officers from disruptive, violent, abusive, threatening or like conduct, and may restrict any individual's rights to contact or communicate with any Councillor or Officer to meet this duty. When the Council proposes to take such a course of action, the resident(s) concerned will be given a right to comment on the proposed course of action, and any such comments will be considered before any course of action is taken.

## How the Council Operates

- 1.11 The Council comprises fifty-one Councillors each of whom is elected for a term four years. If a Council seat becomes vacant during a Councillor's term of office there may be a by-election. By-elections do not usually take place within six months prior to a normal election.
- 1.12 Councillors must be over 18 years old and must live ~~or work~~ or owned property for at least 12 months before an election in the Council's administrative area. Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole community of Southend-on-Sea, but they have a special duty to their Ward residents, including those who did not vote for them. Councillors set the policy of the Council and take many decisions. The Council's website contains details of how to get in touch with Councillors and any positions they hold in the Council.
- 1.13 Councillors must follow a Code of Conduct for Councillors to ensure high standards in the way they undertake their duties. If they do not follow the Code, complaints can be made against them. The Code of Conduct for Councillors and how to make complaints against Councillors and the Council's Arrangements for Dealing with Complaints against Councillors are set out under Part 6 of this Constitution.
- 1.14 All Councillors meet together at least quarterly as the Council and this is called "full Council". At full Council, Councillors: make decisions that the law says are reserved to full Council, including the Council's Budget and Policy Framework (in compliance with which all decisions must be taken), and the level of Council Tax each year. Members

of the public are welcome to attend meetings of full Council. The agenda for meetings of full Council, including the location of the meeting and reports which will be considered at the meeting are published on the Council's website, usually the week before the meeting. The Council is committed to transparency and will ensure it holds full Council meetings in venues which have webcasting facilities and which can accommodate members of the public who wish to attend.

- 1.15 The Council's Annual Meeting is held in May each year. At the Annual Meeting the full Council will elect its Mayor, the meeting then is adjourned to undertake civic mayor making and is resumed to then approves its planned calendar of business and schedule of meetings, but changes to either may be made during the following twelve months. At the Annual Meeting, full Council will also adopt the Council's Constitution, elect, when required ~~the Mayor (see further Part 2 of this Constitution), the~~ Leader of the Council (see further Part 4 of this Constitution), ~~and~~ appoint the Councils' Committee, allocate and determine the allocation of seats to different political groups ~~seats for the municipal~~ and terms of reference for the municipal year (see further Part 3 of this Constitution).
- 1.16 The Council, primarily through its —Scrutiny Committees, and the 'calling-in' of decisions is ultimately responsible for holding the Council's Executive (the Cabinet) to account. The role of the Council, the Overview and Scrutiny Committees and the Cabinet is set out respectively under Part 2, Part, 5 and Part 4 ~~of~~ this Constitution.
- 1.17 In addition to the Annual Meeting, there are two other types of meetings of full Council: ordinary meetings and extraordinary meetings. Meetings of full Council are conducted in accordance with the Council Procedure Rules set out under Part 2 of this Constitution.

### **The Executive (Cabinet)**

- 1.18 The Council has adopted an 'executive' form of governance comprising a Leader and Cabinet. The Cabinet is made up of the Leader of the Council and a group of up to nine Councillors (known as Cabinet Members or Portfolio Holders) who together are responsible for discharging the Council's 'executive functions'. The law decides which functions are executive, which functions are council functions (to be discharged by full Council or a Committee of the Council), and which functions the Council may choose to be either executive functions or council functions (known as 'local choice functions').
- 1.19 The Leader appoints the Cabinet Members and their areas of responsibility (known as portfolios), and may also appoint up to two Deputy Leaders. The Leader may change the composition of the Cabinet and the portfolio responsibilities at any time.
- 1.20 The Cabinet is responsible for developing the Councils' policies and strategies, and takes most of the decisions on service provision.
- 1.21 The Leader also decides which decisions may be taken by Officers under the Scheme of Delegation to Officers set out under Part 7 of this Constitution.

1.22 Executive decisions must be made in line with the overall Budget or Policy Framework approved each year by full Council, and in accordance with the Cabinet Procedure Rules. Where a decision falls outside of the approved Budget or Policy Framework, it must be referred to full Council.

1.23 The role of the Cabinet, Cabinet Arrangements and the Cabinet Procedure Rules are set out under Part 4 of this Constitution.

### **Overview and Scrutiny Committee**

1.24 The Overview and Scrutiny Committee supports and challenges the work of the Cabinet and helps hold it to account. The Overview and Scrutiny Committee can consider decisions of the Cabinet and executive decisions delegated to Officers if the Overview and Scrutiny Committee feels the decision should be looked at before it is implemented. This process is known as “call-in”. The Overview and Scrutiny Committee may recommend that the decision is reconsidered, or ask full Council to consider it before it is referred back to Cabinet for determination. When a decision is called-in, the Cabinet has to hear to what the Overview and Scrutiny Committee or full Council has to say, and then consider the decision again. Neither the Leader nor Cabinet Members are allowed to sit on the Overview and Scrutiny Committee. The role of the Overview and Scrutiny Committee and the Overview and Scrutiny Committee Procedures rules are set out under Part 5 of this Constitution.

1.25 The Overview and Scrutiny Committee may also be consulted by the Cabinet or the Council on forthcoming decisions and policy development.

1.26 The Overview and Scrutiny Committees sometimes also holds inquiries into matters of local concern in which residents may take part. These may lead to reports and recommendations which advise the Cabinet, the Council as a whole, and, in some cases, outside agencies on policies, budget, and service delivery.

### **Other Council Committees**

1.27 Some decisions cannot be decided by the Cabinet. These non-executive decisions include decisions concerning matters such as planning and licensing. Unless the law requires that they are determined by full Council, non-executive decisions are delegated by full Council to the relevant Council Committee, and may be further delegated to Officers under the Scheme of Delegation to Officers set out under Part 7 of this Constitution.

1.28 The composition of Council Committees, unlike the Cabinet and any Cabinet sub-committees, must so far as reasonably practicable, generally be proportionate to the size of the political groups which make up the Council. Members of Council Committees are appointed by full Council.

1.29 The Council has established various Committees to deal with regulatory functions such as planning and licensing.

- 1.30 In addition, ~~Committee Councillors~~Members of the Committee may be appointed to hearing sub-committees when convened to determine planning or licensing applications in particular circumstances.
- 1.31 The Council's Committee structure, Committee Procedure Rules and the terms of reference of the Committee are set under Part 3 of this Constitution.

### **Councillors**

- 1.32 The area of Southend-on-Sea City Council is divided into administrative areas called "Wards". Each Ward is represented by up to one or more~~three~~ elected councillors as detailed on the Council's website.
- 1.33 Members of the public who eligible and registered to vote can vote at a local election for the Councillor they want to represent their Ward. Further information about local elections and how to register to vote in them is available from the Council's website.
- 1.34 Members of the public can also find out who there Ward Councillor is and how to get in touch with them from the Council's website.
- 1.35 Ward Councillors may also hold scheduled sessions where members of the public can meet with them in person, and talk about issues of concern or get advice on Council matters.

### **The Council's Employees (Officers)**

- 1.36 The Council's employees are known as Officers. The role of Officers is to provide advice, implement and make decisions in accordance with the Scheme of Delegation to Officers, and to carry out the day-to-day delivery of services. Officers are recruited in accordance with the Council's Staff Employment Procedure Rules, and paid in accordance with the Council's pay policy. Officers must comply with the Employee Code of Conduct and the Protocol on Member / Officer Relations.
- 1.37 As a matter of law, the Council must appoint certain Officers, including a Head of Paid Service (usually the overall senior officer), a Monitoring Officer (the senior governance officer) and a Chief Finance Officer (the senior finance officer) also known as the 'Section 151 Officer'. These Officers have specific statutory duties and must ensure the Council acts within the law and uses its resources wisely.
- 1.38 Further information about the Council's Officers and management structure is set out under Part 7 of this Constitution.

### **Local and Partnership Working**

- 1.39 The Council works closely with other organisations and creates new partnerships to help the Council meet its corporate vision and objectives. The way in which the Council delivers its services to residents and businesses is reviewed to ensure the Council achieves value for money.

### **Joint Arrangements**

- 1.40 The Council and the Cabinet may discharge their functions in a number of ways:



- 1.40.1 Entering into arrangements or agreements with any person or body to deliver a service;
  - 1.40.2 Establishing joint arrangements, including a joint committee, with one or more other local authorities to exercise functions;
  - 1.40.3 Co-operating with, or facilitating or co-ordinating the activities of, any person or body to deliver a service;
  - 1.40.4 Providing a service or discharging a function on behalf of any person or body;
  - 1.40.5 Delegate the discharge of a Council function to another local authority.
- 1.41 Further information about the Council's joint arrangements is set out under Part 4 of this Constitution.

### **Contracts and Contracting Out**

- 1.42 Every contract made by the Council must comply with the Contract Procedure Rules and the Financial Procedure rules set out under Part 7 of this Constitution.

### **The Common Seal of the Council and Signing Documents**

- 1.43 The Common Seal of the Council is the official stamp of the Council to be used on deeds or other documents and will be kept in a safe place in the custody of the Service Director - Legal and Democratic Services.
- 1.44 A decision of the Council, a Council Committee, the Cabinet, a Cabinet sub-committee, the Leader, or an Officer acting under delegated authority is sufficient authority for the sealing of any document necessary to give effect to the decision.
- 1.45 The Common Seal will be affixed to those documents which in the opinion of the Director Legal Services (Monitoring Officer) should be sealed, or are required to be sealed by the Contract Procedure Rules set out under Part 7 of this Constitution.
- 1.46 The Common Seal will be attested by the Chief Executive or Director Legal Services (Monitoring Officer) or any other Officer authorised by ~~the Director Legal Services (Monitoring Officer)~~them.

### **Changes to the Constitution and its Publication**

- 1.47 This Constitution has been formally adopted by the Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.48 The Monitoring Officer has authority to make typological and grammatical ~~minor~~ amendments and corrections to the Constitution. Any non substantial amendments can also be made following consultation with the Leader.
- 1.49 Any substantive changes to the Constitution will be considered by the Standards Committee which will recommend appropriate changes to full Council.
- 1.50 The approval of full Council is required before any substantive changes to the Constitution are implemented.

1.51 The Monitoring Officer will ensure that copies of this Constitution are available for inspection on the Council's website and at the Council's offices, and is available for purchase by members of the public or the press for a reasonable fee.

## **2. Public Participation with Southend-on-Sea City Council**

2.1 The Council encourages and actively supports the public getting involved in its work to serve the Council's area. The Council wants to make it easy for people to get involved and give their views to help influence and develop what the Council does and the decisions it takes.

2.2 The Council welcomes suggestions which will help improve the way it works and how it involves the public.

2.3 Set out below are a number of ways in which members of the public can get involved with the Council's work and the decisions the Council makes.

### **Attendance at Meetings of Council, Cabinet and Committee Meetings**

2.4 Members of the public are encouraged to attend meetings of the Council to hear debates. The members of the public are only able to speak at certain meetings but all meetings are open and are usually also streamed online.

2.5 Details of when and where meetings will be held are published on the Council's website. The agenda and papers for a meeting provide information about what will be covered in the meeting, and are also published on the Council's website at least five days ahead of the date of the meeting.

2.6 There are limited occasions when the Council needs discuss exempt or confidential matters at a meeting. When this happens members of the public and the press are excluded from the meeting while these matters are discussed. This is also called a 'private session'. The Council will only exclude members of the public and the press from a meeting when it is absolutely necessary and where there is legal justification for the meeting going into a private session.

### **Public Speaking**

2.7 The public can speak in accordance with set procedures at the following meetings:

- Scrutiny Committees:
- Full Council
- Planning Committee or Regulatory Committees

### **Petitions**

2.8 The Council is pleased to accept petitions dealing with something for which the Council is responsible. There are rules which set out how to make a petition to the



Council, what happens when a petition is received and how the Council responds. and how we respond as a Council. The Petition Scheme is set out below at Section 4.

### Consultation

2.9 The Council tries to consult as widely and as fairly as possible where required. Sometimes, with matters such as planning and licensing applications, there are specific statutory consultation processes that the Council must follow. Other than where a statutory consultation is required, the Council will try to consult on important decisions as widely as practicable ~~widely as possible~~ and give feedback about the outcome of the consultations.

### Webcasting and Social Media

2.10 Members of the public are welcome to attend meetings of the Council as detailed above. Many meetings are also streamed for viewing online using the Council's webcast service.

2.11 Updates from the Council are also available on the following social media platforms:

2.11.1 Facebook;

2.11.2 X (formerly Twitter);

2.11.3 YouTube;

2.11.4 LinkedIn – Southend-on-Sea City Council;

2.11.5 Instagram - @Southend-on-Sea City Council.

### Budget and Policy Development

2.12 The Council is keen to include and involve members of the public when Councillors come to set the Council's budgets and key policies so that residents can ~~directly influence~~ provide their views on the decisions the Council makes.

2.13 When appropriate the Council ~~may run~~ consultations inviting people to have their say. Focus groups, residents' panels or user panels may also be arranged as a way of involving people and seeking their views.

### 3. [Decision Making and Key Decisions]

[(potential) Space Holder – decision making and key decisions summary]

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## 4. ACCESS TO INFORMATION PROCEDURE RULES

### Scope of the Access to Information Procedure Rules

4.1 These Access to Information Procedure Rules apply to all meetings of full Council, the Overview and Scrutiny Committee, Regulatory Committees, sub-committees and joint committees as applicable, and to public meetings of the Cabinet and sub-committees of the Cabinet unless otherwise specified in these Rules. These rules are at times written in formal language because of the statutory basis for these arrangements. If you have specific questions our Democratic Services Team will be happy to help you.

~~4.2 The words “meeting” and “meetings” shall apply to all of the above meetings except where otherwise specified in these Rules.~~

~~4.3 References to the Proper Officer or the Monitoring Officer shall include Officer authorised by the Proper Officer or the Monitoring Officer to act on their behalf in respect of any Act detailed in these Rules.~~

### Additional Rights to Information

4.44.2 These Rules do not affect any other public rights of access or to information provided for elsewhere in this Constitution or by law.

4.54.3 Councillors’ rights set out in these Rules are additional to any other right(s) they have under the common law or statute.

### Rights to Attend and Record Meetings

4.64.4 Members of the public and press are welcomed and encouraged to attend all meetings subject only to the exceptions set out in this Constitution.

4.74.5 Members of the public may record or film the proceedings of any meeting by any means subject to the rules of this Constitution.

4.84.6 The rights at 4.6 and 4.7 are without prejudice to the Council’s power to suppress or prevent disorderly conduct or other misbehaviour at any meeting.

### Notices of meeting

4.94.7 The Council will give at least five clear days’ notice of any meeting by posting details of the meeting on the Council’s website and at the Council’s offices.

4.104.8 Where the meeting is convened at shorter notice, details of the meeting will be posted on the Council’s website and at the Council’s offices at the time the meeting is convened.

### **Access to Agenda and Reports before the Meeting**

4.144.9 The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the Council's offices at least five clear days before the meeting unless the matter is urgent.

4.124.10 Where there are special circumstances requiring an item to be added to the agenda after its publication, as an item of urgent business at the direction of the Chair of the meeting, the Proper Officer will make each such report available to the public and press, and open for inspection as soon as the report is available to Councillors attending the meeting.

4.134.11 The special circumstances requiring an item of urgent business to be added to the agenda, and the Chair's direction to do so, will be recorded in the minutes of the meeting.

### **Supply of Copies of Agendas and Reports**

4.144.12 The Council will supply copies of the following documents to any person on payment of a charge for postage, copying and any other necessary charge for transmission:

4.14.14.12.1 Any agenda and reports which are open to public inspection; and

4.14.24.12.2 Any further statements or particulars necessary to indicate the nature of the items on the agenda;

4.14.34.12.3 Any written record of an executive decision;

4.14.44.12.4 Any reports considered by a decision maker which are open to public inspection;

4.14.54.12.5 A list of background information (and the information on request);

4.14.64.12.6 If the Monitoring Officer thinks fit, any other documents supplied to Councillors in connection with an agenda item;

4.154.13 The information will also be made available on the Council's website.

### **Access to Minutes and other Documents after the Meeting**

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

4.16.14.14.1 The minutes of the meeting or records of decisions taken together with reasons for all meetings of the Cabinet, a sub-committee of the Cabinet, the Council and Council Committees which is to be published under this Constitution, excluding any part of the minutes of proceedings or decision record when the meeting was not open to the public, or which disclosed exempt or confidential information; and,

4.16.24.14.2 A summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record; and,

~~4.16.34.14.3~~ The agenda and reports for the meeting relating to items when the meeting was open to the public.

### **Public Inspection of Minutes and Reports**

~~4.174.15~~ The Council will make available for public inspection for six years after the date of a meeting a copy of the agendas, minutes and reports relating to the meeting.

### **Background Papers**

~~4.184.16~~ The author of a report will set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in the author's opinion:

~~4.18.14.16.1~~ Disclose any facts or matters on which the report or an important part of the report is based; and,

~~4.18.24.16.2~~ Which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information as defined in these Rules and in respect of Cabinet reports, the advice of a political advisor, if any.

~~4.194.17~~ "Published works" includes previous Council, Cabinet or Committee reports relevant to the decision and do not need to be listed.

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

~~4.204.18~~ The Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers except where in the opinion of the Proper Officer to do so would be likely to disclose confidential or exempt information or the advice of any political adviser or assistant.

### **Exclusion of Press and Public**

#### Confidential Information – requirement to exclude press and public

~~4.214.19~~ The press and public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed in breach of the obligation of confidence.

~~4.224.20~~ Reports containing confidential information must not be published as part of the agenda of the meeting.

~~4.234.21~~ "Confidential information" means:

~~4.23.14.21.1~~ Information given to the Council by a government department on terms (however expressed) which forbid its public disclosure; or

~~4.23.24.21.2~~ Information which cannot be publicly disclosed by an order of the court or in accordance with any enactment.

Exempt Information – discretion to exclude press and public

4.244.22 The Proper Officer may if (s)he thinks fit exclude from public and press inspection in advance of a meeting, reports, or parts of reports, which are considered to contain exempt information and which a meeting where such reports are to be discussed is likely to exclude the press and public on the grounds that the report contains exempt information.

4.254.23 The press and public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed provided that the meeting resolves to exclude the press public, and that resolution:

4.25.14.23.1 Identifies the proceedings or part of the proceedings to which the exclusion applies; and,

4.25.24.23.2 States by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (see below) the description of the exempt information giving rise to the exclusion of the press and public; and

4.25.34.23.3 Considers, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

4.274.25 "Exempt information" means information falling within the following categories defined by Schedule 12A of the Local Government Act 1972 as detailed in the table below:

Schedule 12A Paragraph Number / Category of Information	Conditions
1. Information relating to an individual	
2. Information which is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding the information) and includes contemplated as well as past or current activities	<p>Information is not exempt information if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) The Companies Acts (as defined by s2 of the Companies Act 2006;</li> <li>(b) The Friendly Societies Act 1974;</li> <li>(c) The Friendly Societies Act 1992;</li> <li>(d) The Co-operative and Community Benefits Societies Act 2014;</li> <li>(e) The Building Societies Act 1986; or,</li> <li>(f) The Charities Act 2011.</li> </ul> <p>“registered” in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office holders under, the authority	<p>“labour relations matters” means:</p> <ul style="list-style-type: none"> <li>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of trade dispute within the meaning of that Act); or,</li> <li>(b) any dispute about a matter falling within paragraph (a) above;</li> </ul> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office holders under the authority as they apply in relation to employees of the authority;</p>

	<p>“employee” means a person employed under a contract of service;</p> <p>“office holder” in relation to the authority means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds such office or is an employee of the authority.</p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
<p>6. Information which reveals that the authority proposes:</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or,</p> <p>(b) to make an order or direction under any enactment</p>	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

### Public Interest Test and Planning Applications by the Council

4.284.26 Information which falls within paragraphs 1 to 7 can only be exempt information if:

4.28.14.26.1 It does not relate to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992; and / or,

4.28.24.26.2 In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### Rules Applying to Executive (Cabinet) Decisions

4.294.27 The following rules apply to executive meetings where Key Decisions are made. A Key Decision is:

4.29.14.27.1 A decision is taken which is likely to:



- (a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Council's administrative area.

4.304.28 The Leader shall set the financial threshold (the Key Decision Financial Threshold) at which executive decisions will be Key Decisions in accordance with the above definition and any statutory guidance.

4.314.29 The current Key Decision Threshold is detailed above at Section 3.

4.324.30 Subject to the Rule 4.37 and Rule 4.38 below relating respectively to General Exceptions and Special Urgency, a Key Decision may not be taken unless a Forward Plan has been published at least twenty-eight days in advance containing the information set out below in respect of each Key Decision to be made:

4.32.14.30.1 The subject matter in respect of which the Key Decision is to be made;

4.32.24.30.2 The identity of the Key Decision maker (whether a body or individual);

4.32.34.30.3 The date on which, or the period within which, the Key Decision is to be made;

4.32.44.30.4 A list of documents submitted to the Key Decision maker for consideration in relation to the matter in respect of which the decision is to be made;

4.32.54.30.5 The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from any document listed is available;

4.32.64.30.6 That other documents relevant to those matters may be submitted to the Key Decision maker; and,

4.32.74.30.7 The procedure for requesting details of those documents (if any) as they become available.

4.334.31 The Forward Plan may not contain any confidential information or exempt information, or the particulars of the advice of a political assistant (if any).

4.344.32 The Forward Plan must be made available for inspection by the public on the Council's website and at the Council's offices.

4.354.33 The Forward Plan is published on the Council's website.

### **General Exception to Publication of Key Decisions on the Forward Plan (The General Exception Rule)**

4.364.34 If it is impracticable to include a Key Decision on the Forward Plan, then subject to the Special Urgency Rule below (Rule 4.38) the decision may still be taken if:

~~4.36.14.34.1~~ The Monitoring Officer informs the Chair of the Overview and Scrutiny Committee by notice in writing of the proposed Key Decision; or, if there is no appointed Chair or the Chair is unavailable, each member of the Overview and Scrutiny Committee;

~~4.36.24.34.2~~ The Monitoring Officer publishes a notice that the Key Decision will be taken and the reasons why it is impracticable to give the twenty-eight days' notice required by the Forward Plan before making the decision. The notice must be published on the Council's website and at the Council's offices; and,

~~4.36.34.34.3~~ There are at least five clear days between the day the notice is published and the day the decision is made.

### **Special Urgency for Key Decisions (The Special Urgency Rule)**

~~4.374.35~~ If by virtue of the date by which a Key Decision must be taken, the General Exception Rule (Rule 4.37 above) cannot be followed, then the Key Decision can only be taken:

~~4.37.14.35.1~~ If the Chair of the Overview and Scrutiny Committee agrees that the making of the Key Decision is urgent and cannot reasonably be deferred to a meeting where the General Exception Rule can be met;

~~4.37.24.35.2~~ If there is no Chair of the Overview and Scrutiny Committee or the Chair is not available, the Deputy Chair of the Overview and Scrutiny Committee's agreement must be obtained.

~~4.384.36~~ As soon as reasonably practicable after the decision maker has obtained agreement as above the Monitoring Officer must publish on the Council's website and make available at the Council offices a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

### **Reports on Special Urgency Key Decisions**

~~4.394.37~~ The Leader will submit to full Council a report on any Key decision taken in accordance with the Special Urgency Rule (Rule 4.38) to the next ordinary meeting of full Council with the particulars of the Key Decision.

### **Procedure Prior to Private Meetings of the Cabinet**

~~4.404.38~~ The Leader ~~intends to shall~~ hold all Cabinet meetings in public (with discretion to hold matters in private if exempt information is being considered) but the Cabinet has the additional power to hold meetings in private which may occur where the only items on the agenda are likely to be exempt and it is not proportionate to hold the meeting in public for only the procedural items on the agenda.

~~4.414.39~~ If the Cabinet intends to hold all or any part of a meeting in private, it will:

~~4.41.14.39.1~~ Publish a notice of this intention on the Forward Plan; and

4.41.24.39.2 At least five clear days before the meeting give a further notice of the private meeting and make this available for public inspection on the Council's website and at the Council's offices

4.42.4.40 The notice will include:

4.42.14.40.1 A statement of the reasons for the meeting to be held in private;

4.42.24.40.2 Details of any representations received as to why the meeting should be open to the public; and,

4.42.34.40.3 A statement of the response to any such representations.

4.434.41 Where the date by which a meeting must be held means that the notice requirements above are impracticable, the meeting will only be held in private if:

4.43.14.41.1 The Chair of the Overview and Scrutiny Committee agrees that he meeting is urgent and cannot reasonably be deferred;

4.43.24.41.2 If there is no Chair of the Overview and Scrutiny Committee or the Chair is not available, the Vice Chair of Overview and Scrutiny Committee's agreement must be obtained.

4.444.42 As soon as reasonably practicable after agreement is obtained, the Cabinet will make available for public inspection on the Council's website and the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

### **Record of Decisions**

4.454.43 After any meeting of the Cabinet or a sub-committee of the Cabinet the Proper Officer will produce a written record of every decision taken at that meeting including:

4.45.14.43.1 A record of the decision and the date it was made;

4.45.24.43.2 A statement of the reasons for each decision and any alternative options considered and rejected at that meeting; and,

4.45.34.43.3 A record of any declarations of interest made by any member of the decision-making body and a note of any dispensation granted in respect of any declaration.

### **Additional Rights of Access to Information for Scrutiny Committee Members**

4.464.44 Subject to the Rules 4.52 to 4.51 below, a member of the Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Cabinet which contains material relating to:

4.46.14.44.1 Any business transacted at a Cabinet meeting or a meeting of a Cabinet sub-committee;

4.46.24.44.2 Any decision taken by the Leader or the Cabinet;

4.474.45 Any documents requested must be provided as soon as is practicable and, in any case, no later than ten clear days after receipt of the request.

4.484.46 A Scrutiny Committee member will not be entitled to:

4.48.14.46.1 Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or

4.48.24.46.2 A copy of a document or part of a document containing the advice of a political assistant (if any).

4.48.34.46.3 Any draft document that was considered prior to the final report.

#### **Additional Rights of Access to Information for All Councillors**

4.494.47 Any Councillor will be entitled to inspect any document in the possession or under the control of the Council:

4.49.14.47.1 Which relates to any business to be transacted at a meeting of full Council, a Council Committee or a sub-committee of a Council Committee;

4.49.24.47.2 Except any part of a document that contains confidential or exempt information

4.49.34.47.3 Or any draft document that was considered prior to the final report.

4.504.48 Any Councillor will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or a sub-committee of the Cabinet:

4.50.14.48.1 Which relates to any business to be transacted at a public meeting of the Cabinet or sub-committee of the Cabinet;

4.50.24.48.2 Except any part of a document that contains confidential or exempt information or the advice of any political assistant (if any).

4.50.34.48.3 Or any draft document that was considered prior to the final report.

4.514.49 Any councillor is entitled to inspect at the conclusion of a meeting of the Cabinet or a sub-committee of the Cabinet:

4.51.14.49.1 Any document which is in the possession, or under the control, of the Cabinet or a sub-committee of the Cabinet and which contains material relating to any business previously transacted at a private meeting; or,

4.51.24.49.2 any decision taken by the Leader or the Cabinet.

4.524.50 Councillors may not inspect any part of a document that contains confidential or exempt information or advice of a political assistant (if any) if it falls within:

4.52.14.50.1 Category 3 in the table at paragraph 4.27 above unless it contains information that relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

4.52.24.50.2 Category 6 in the table at paragraph 4.27 above.

### **Operational Decisions**

4.534.51 Decisions delegated to Officers under the Scheme of Delegation to Officers set out under Part 7 of this Constitution are known as “Operational Decisions”.

4.544.52 Operational Decisions and are not required to be published unless:

4.54.14.52.1 The Operational Decision would otherwise have been taken by the Council, a Council Committee, Council Sub-Committee or a Joint Committee; and,

4.54.24.52.2 The decision is to:

- (a) grant a permission or licence; or,
- (b) affects the rights of an individual; or,
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

4.554.53 An Officer making an Operational Decision must keep a clear written record of the decision which includes the following:

4.55.14.53.1 The delegating power (whether under the Constitution, the Scheme of Delegation to Officers or an express delegation in relation to the decision);

4.55.24.53.2 A record of the Operational Decision taken and the reasons for the decision, including the date it was made;

4.55.34.53.3 Details of alternative options, if any considered and rejected,

4.55.44.53.4 Details required to be recorded in accordance with any other Council Rules or procedures (e.g., the Contract Procedure Rules set out under Part 7 of this Constitution).

4.564.54 The requirement to maintain a written record of an Operational Decision will be satisfied if the Officer has recorded the decision in accordance with any other statutory requirements.

4.574.55 Records of Operational Decisions which are required to be published must be retained for a minimum of six years. Operational Decisions which are not required to be published must be retained in accordance with the Council's Record Retention Policy.

4.584.56 Where an Operational Decision must be published, the written record of the Operational Decision and any background papers must be made available for public inspection on the Council's website and at the Council's offices as soon as reasonably practicable

## 5. THE PETITION SCHEME

- 5.1 The Council welcomes petitions and recognises that they are one way in which people can let the Council know their views.

Anyone who lives, works or studies in the City of Southend-on-Sea (including under 18's) can sign or organise a petition.

The Council is pleased to advise that it agreed that the Petition Scheme should continue to operate notwithstanding the repeal of the relevant legislation (by s46 of the Localism Act 2011).

Southend-on-Sea City Council's petition scheme. Can be found here <https://democracy.southend.gov.uk/mgEPetitionListDisplay.aspx?bcr=1>

### **What is a Petition?**

- ~~5.2 The Council treats as a petition any communication which is identified as being a petition or if it seems that it is intended to be a petition and has been signed by a minimum of ten people who live, work or study in the Council's area.~~

### **The Role of Councillors**

- ~~5.3 Before considering whether or not to submit a petition to the Council, the petition organiser may want to discuss their issue with one of their Ward Councillors. A local Councillor will be able to advise whether the subject matter of the petition is a matter for the Council, and also whether a petition is the best form of engagement with the Council on the matter which has been raised.~~

- ~~5.4 When a petition is received by the Council which relates to a local matter (particularly affecting a specific Ward), the Council will notify each relevant Ward Councillor.~~

### **How to Submit a Petition**

- ~~5.5 A petition can be by delivered to the Council by post, by hand, e-mail or through the e-petition scheme if available.~~

- ~~5.6 Petitions should be:~~

~~5.6.1 Emailed to democratic services at [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk) ; or,~~

~~5.7 The Council welcomes e-petitions which are created and submitted through the e-petitions section of the Council's website. E-petitions must follow the same guidelines as paper petitions. All e-petitions will run for 28 days (unless the Petitions Officer agrees an alternative timescale) to ensure that the Council's decision-making process is not delayed. The petition will need to be checked before it is published online, and if the Council is unable to publish it, an Officer will contact the petition organiser to explain why.~~

### **How the Council deals with a Petition**

~~5.8 All petitions submitted to the Council will receive an acknowledgement within three clear working days of receipt.~~

~~5.9 If the petition is not valid it will be returned to the petition organiser with an explanation within ten clear working days of receipt.~~

~~5.10 If the petition is valid the petition organiser will be informed of how the petition will be dealt with within twenty clear working days of acknowledgement.~~

~~5.11 If the petition organiser is submitting the petition in response to a Council consultation or on a specific matter, it is important to identify the consultation or the specific matter which it relates to, so that the Council can ensure that the petition is considered along with the original matter. (see below for further guidance).~~

~~5.12 Any petition submitted to the Council will be publicly available and may form part of an agenda and be published on the Council's website.~~

### **What Makes a Petition Valid?**

~~5.13 To be valid, a petition must include:~~

~~5.13.1 What it is about – it must relate to a matter which is the responsibility of the Council (the matter to which the petition relates must be stated on each page of the petition);~~

~~5.13.2 What the petitioner wants the Council to do (this must be stated on each page of the petition);~~

~~5.13.3 The name of everyone who supports the petition must be set out in an identifiable way;~~

~~5.13.4 For paper petitions, the signature of each petitioner;~~

~~5.13.5 The name and contact details of the petition organiser or someone the petition organiser would like any correspondence about the petition to be sent. This can be either a postal or an email address;~~

~~5.13.6 The petition organiser may include the addresses of petitioners, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a particular matter, but this is not essential.~~

~~5.14 The Council's Petitions Officer may reject a petition if in their view:~~



~~5.14.1 It is not relevant to a Council function or a matter which is the responsibility of the Council;~~

~~5.14.2 It does not qualify under this Petition Scheme or does not comply with the above rules of this Petition Scheme;~~

~~5.14.3 It is vexatious, abusive or otherwise inappropriate~~

~~5.14.4 It is a duplicate or repeat petition;~~

~~5.14.5 It is a petition qualifying under another enactment;~~

~~5.14.6 It is excluded, for example because:~~

~~(a) It relates to a planning decision and/or ancillary applications and/or decisions, and/or follow on decisions;~~

~~(b) It relates to a licensing decision;~~

~~(c) It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.~~

~~5.15 In the period immediately before an election or referendum the Council may need to deal with the petition differently – if this is the case the Petitions Officer will explain the reasons and discuss the revised timescale which will apply. Political impartiality must be maintained during the pre-election period (also known as ‘purdah’). If the petition does not follow the rules and guidelines set out above, the Council may decide not to do anything further with it. In this case, the Petitions Officer will write to the petition organiser to explain the reasons.~~

### **Different Types of Petition**

~~5.16 There are different types of petitions which are submitted for various reasons:~~

~~5.16.1 Consultation:~~

- ~~• Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal. The petition will be taken into account either by the appropriate Council body or Officer taking the decision.~~

~~5.16.2 Council-wide Petitions: NB XREF to current scheme~~

- ~~• The Petition will be presented at full Council. The Council will not debate the petition. The relevant Ward Councillor will be allowed three minutes to present the petition at the meeting. Except with the consent of the Mayor, only one person may speak to present a petition. At any one meeting, no Councillor may present more than two petitions unless approved at the time of receipt by the Monitoring Officer in consultation with the Mayor. The full Council may refer the petition to the relevant Council body for consideration. A relevant Cabinet Member may~~



~~provide an immediate verbal response to the petition, or refer it to a relevant Committee, or the Cabinet for further consideration.~~

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## Part 2 The Council

### 1. THE COUNCIL

#### Composition

- 1.1 The Council comprises fifty-one Councillors (also called “Members”) elected for a term of office of four years.
- 1.2 ~~A Councillor’s term of office starts and ends on the fourth day after they are elected; shall retire together in every such fourth year on the fourth day after the ordinary day of election of councillors, and the newly elected councillors shall come into office on the day on which their predecessors retire.~~
- 1.3 Southend-on-Sea City Council’s Councillors represent 17 areas known as Wards across the city. Each Ward has three Councillors.
- 1.4 Each Councillor represents a roughly equivalent number of electors.
- 1.5 If a Councillor resigns or leaves office for another reason, a by-election is held to fill the “casual” vacancy in accordance with a statutory procedure, unless it is within six months of the next ordinary local elections in which case the casual vacancy will be filled at those elections.

#### The Role of the Council

- 1.6 The Council’s role (its “functions”) are:
  - 1.6.1 Adopting and amending the Council’s Constitution (this Constitution);
  - 1.6.2 Approving or adopting the Council’s Budget and Policy Framework;
  - 1.6.3 Setting the Council Tax;
  - 1.6.4 Subject to the urgency procedure of the Council’s Budget and Policy Framework Procedure Rules, making decisions which relate to an executive function which is covered by the Budget and Policy Framework, when the decision would be contrary to, or not wholly in accordance with the Budget, or would be contrary to the Policy Framework;
  - 1.6.5 Appointing and removing the Leader of the Council;
  - 1.6.6 Deciding the composition of the Council’s Committees, appointing Councillors to be members on a Committee, and agreeing and / or amending the terms of reference of the Committees;
  - 1.6.7 Appointing Councillors to represent the Council on outside bodies (unless the appointment is, or relates to, an executive function, or it has been delegated by the Council to an individual or Council body);

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- 1.6.8 Adopting, amending, revoking or replacing the Code of Conduct for Councillors, and the Council's Arrangements for Dealing with Complaints against Councillors;
- 1.6.9 Adopting, amending, revoking or replacing the Scheme of Member Allowances;
- 1.6.10 Passing byelaws and local legislation;
- 1.6.11 Confirming and terminating the appointment of the Council's Head of Paid Service (Chief Executive) and certain Statutory Officers;
- 1.6.12 Discharging the functions which must be reserved to the Council as a matter of law;
- 1.6.13 Discharging the non-executive functions specified in this Constitution as being the responsibility of the Council;
- 1.6.14 Appointing Honorary Alderman [and Honorary Freeman](#) in accordance with ~~the~~ [Honorary Alderman Council's](#) Scheme.

## **2. THE ROLE OF COUNCILLORS**

### **All Councillors**

#### **2.1 All Councillors:**

- 2.1.1 Make decisions collectively, as part of a member body or individually where they are reserved or delegated to a Councillor for decision;
- 2.1.2 Represent the Council and its interests on other bodies;
- 2.1.3 Maintain the highest standards of conduct and ethics in performing their role, and ensure they do not participate in decisions or influence decisions where the Code of Conduct for Councillors set out under Part 6 of this Constitution, or the law prohibits their participation;
- 2.1.4 Contribute to the good governance and high ethical standards of the city of Southend as a whole;
- 2.1.5 Be a community leader, actively encouraging community participation and citizen involvement in Council decision making;
- 2.1.6 Effectively represent the interests of their Ward and of individual constituents including those who did not vote for them; and
- 2.1.7 Respond to residents' enquiries and representations fairly and impartially;
- 2.1.8 Agree to comply with the Code of Conduct for Councillors and the Rules and Protocols set out under this Constitution;
- 2.1.9 Must register disclosable pecuniary interests and other interests in the Councils' Register of Member Interests within twenty-eight days of being elected, and thereafter ensure their registered interests are up to date;
- 2.1.10 Must declare interests at meetings and take appropriate action in accordance with the Code of Conduct for Councillors.

### **The Mayor**

- 2.2 The Mayor is elected by the full Council at its Annual Meeting each year, which is usually held in May. The Council also elects a Deputy Mayor who acts as the Mayor when the Mayor is not available.
- 2.3 The Mayor (and Deputy Mayor) undertake civil and ceremonial roles on behalf of the Council and represent the Council at events. The Mayor promotes public involvement in the Council's activities.
- 2.4 Although the Mayor is an elected Councillor, and has a vote, they have a duty to be impartial in carrying out the role of Mayor.

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- 2.5 The Mayor presides over meetings of the full Council to ensure that business is carried out effectively and has responsibilities for upholding and interpreting this Constitution. The Mayor's rulings on the Constitution or on any proceedings or meetings of the Council cannot be challenged, although their interpretation must have regard to the purposes of this Constitution and must be reasonable and lawful.
- 2.6 ~~Neither the Mayor, or the Deputy Mayor can be the Leader of the Council, or a member of the Cabinet~~cannot be a member of the Overview and Scrutiny Committee.

### **3. THE BUDGET AND POLICY FRAMEWORK**

3.1 Policy Framework means the following plans and strategies:

- a) Annual library plan (if secretary of state requests) under s1(2) of the Public Libraries and Museums Act 1964
- b) Children and young people's plan under s3 of the Children and Young People's Plan (England) Regulations 2005
- c) Crime & disorder reduction strategy under s5 & 6 of the Crime and Disorder Act 1998
- d) Development plan documents under s15 of the Planning and Compulsory Purchase Act 2004
- e) Statement of principles under s349 of the Gambling Act 2005
- f) Local Transport Plan under s108(3) of the Transport Act 2000
- g) Youth Justice Plan under s40 of the Crime and Disorder Act 1998

and additionally:

- h) Corporate plan
- i) Licensing authority policy statements under s5 Licensing Act 2003
- j) Taxi and private hire policy
- k) Community Infrastructure Levy (CIL) Charging Schedule
- l) Housing Strategy

3.2 The Budget means the following:

3.2.1 Approve a balanced Revenue Budget and specifically;

- (a) Approve the Council Tax Base
- (b) Approve the rate of Council Tax and relevant precepts
- (c) Approve the Gross Revenue Budget
- (d) Approve the net spending limit for each major service element (Directorate)

and in doing so adopt the following plans or strategies to support the delivery of the Council's budget:

- (e) Capital Investment Budget
- (f) Capital and Investment Strategy
- (g) Medium Term Financial Strategy

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- (h) Reserves Strategy
- (i) Statutory council tax calculations
- (j) Treasury Management Policy, Treasury Management Practices and prudential indicators including the Minimum Revenue Provision.
- (k) Capital strategy (including an asset management plan)

#### **4. THE COUNCIL PROCEDURE RULES**

[Space Holder]

(Council Procedure Rules currently as a separate document for insertion here on agreement and finalisation)

#### **5. THE BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

[Space Holder]

(Budget and Policy Framework Procedure Rules currently as a separate document for insertion here on agreement and finalisation)



## **6. THE HONORARY ALDERMAN SCHEME**

### **Background**

- 6.1 Under section 249 of the Local Government Act 1972 (the Act) the Council has the power to confer the title of 'Honorary Alderman' on persons who have, in the opinion of the Council, rendered eminent services to the Council as past Councillors of Council, but who are no longer Councillors of the Council. The Act does not specify how eminent services are defined, and this is left as a matter of local interpretation.
- 6.2 The Act also provides that in order to confer the title of Honorary Alderman on a former Councillor, a meeting of the full Council needs to be convened specifically for this purpose, and the resolution to confer the title of Honorary Alderman must be passed by not less than two thirds of the Councillors physically present at the meeting and entitled to vote.
- 6.3 This is the Council's Honorary Alderman Scheme (Scheme).

### **Process for Nomination**

- 6.4 Nominations shall only be made in the year of the Council elections.
- 6.5 Any nomination must be proposed and seconded by existing, serving Councillors of the Council.
- 6.6 Nominations received will be submitted to the Monitoring Officer who will then liaise with the Political Group Leaders and the Mayor to consider the nomination.
- 6.7 A report will then be presented to full Council to consider conferring the Honorary Alderman status on the nominated former Councillor.

### **Alderman Status**

- 6.8 Formal election to the Roll of Honorary Alderman is by a resolution of the full Council, passed by not less than two thirds of those Councillors physically present and entitled to vote at the meeting specifically convened for purpose.

### **Criteria**

- 6.9 A person shall be deemed eligible to be enrolled as an Honorary Alderman provided that the person has served as a Councillor of the Council for a minimum of ten years in total.

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6.10 Honorary Alderman is an apolitical role so a former Councillor appointed as an Honorary Alderman should not hold political office.

6.11 For the purposes of this Scheme, the term “eminent service” is left undefined to allow flexibility when determining nominations.

#### **Term of Office**

6.12 All Honorary Aldermen shall be lifetime appointments subject to the withdrawal of the title / rights and privileges set out below.

#### **Rights and Privileges**

6.13 An Honorary Alderman is entitled to the following rights and privileges:

6.13.1 To be presented with an Honorary Aldermen badge.

6.13.2 To receive the link to the electronic version of the full Council summons and agenda;

6.13.3 Free parking at each of the Council’s Offices when undertaking duties;

6.13.4 To receive invitations to all civic / ceremonial and social events to which Members of the Council are invited;

#### **Withdrawal of Title / Rights and Privileges**

6.14 If an existing Honorary Alderman stands for election and is not elected, s/he shall continue in the role of Honorary Alderman. If s/he is elected to the Council as a Councillor, the title and rights shall be withdrawn, ~~from the individual for such time as s/he is serving as an elected Councillor.~~

6.15 It shall be competent for the Council in any other particular case to withdraw the title of Honorary Alderman and the attached rights and privileges. Such withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefor) and a subsequent resolution of the Council passed by not less than two thirds of the Councillors physically present at the meeting and entitled to vote on the matter. On the passing of such resolution, the Monitoring Officer shall delete the name of the person concerned from the Roll of Honorary Aldermen and advise that person accordingly.

#### **Application of this Scheme**

6.16 This Scheme shall apply to all Honorary Aldermen of the Council.

## Part 2                    The Council

### 4.    THE COUNCIL PROCEDURE RULES

#### Purpose and Interpretation

- 4.1 The Council Procedure Rules (hereinafter in this section 4 “Rules”) govern the conduct of meetings of the full Council. The Rules shall be read in conjunction with the Constitution in its entirety and are subject to any statute or other enactment whether passed before or after these Rules came into effect.
- 4.2 The Mayor’s ruling on the application and interpretation of these Rules is final and, once made, shall not be questioned in meetings. The Monitoring Officer shall advise the Mayor and Council on the construction, interpretation, or application of any part of these Rules.
- 4.3 References to “meeting” mean an annual meeting, an ordinary meeting and an extra ordinary meeting of full Council as the case may be.
- 4.4 References to the Mayor, the Leader or Opposition Leader or spokesperson shall in their absence from a meeting or item include their appointed deputy.
- 4.5 References to the Chief Executive shall apply to their deputy and in their absence to the Monitoring Officer.
- 4.6 References to “days” shall mean calendar days, unless specified to be clear working days.
- 4.7 “full Council” means a meeting of all the Councillors as a single body, including when it exercises decision making powers.
- 4.8 Where a deadline or time limit is stated in these Rules, it shall mean 11.59pm on that day unless otherwise stated or defined by law.
- 4.9 Requirements for notices in writing or signatures includes electronic communications and signatures, but excludes social media and text messages.

#### The Annual Meeting

- 4.10 The Council shall hold an Annual Meeting each year on the following dates:
  - 4.10.1 In the year when ordinary elections are held, between the eighth and 21st day immediately following the day of retirement of Councillors (which is on the fourth day after the day of the election)
  - 4.10.2 In any other year, on any day in March, April or May as the Council may fix.
- 4.11 The order of business at the Annual Meeting will be:
  - 4.11.1 To elect the Mayor for the ensuing municipal year;
  - 4.11.2 To appoint the Deputy Mayor for the ensuing municipal year;

- 4.11.3 To approve the minutes of the last meeting of the Council;
- 4.11.4 To receive any announcements from the Mayor and / or Chief Executive;
- 4.11.5 To receive a report from the Chief Executive on the outcome of the Election (if applicable), the membership and size of the Political Groups, the Councillors appointed by their groups as the group leaders, deputy leaders and whips;
- 4.11.6 To elect a Councillor as Leader of the Council for a term of one year;
- 4.11.7 To receive a report (either verbal or written) from the Leader and (s)he may speak for up to five minutes setting out:
  - (a) the Council's priorities;
  - (b) the appointment of between two and nine Councillors to the Cabinet; Cabinet Members");
  - (c) the appointment of one of the Cabinet Members as the Deputy Leader;
  - (d) the allocation of portfolios to Cabinet Members, if any;
  - (e) the scheme of delegation for the exercise of executive powers;
- 4.11.8 To appoint one or more Scrutiny Committees and to determine their terms of reference;
- 4.11.9 To appoint such other Committees and their terms of reference as the Council considers appropriate to discharge non-executive functions that are not reserved by law or under this Constitution for determination by full Council;
- 4.11.10 To agree the allocation of seats on the Committees in accordance with the political proportionality (where applicable) for nomination subsequently by Political Groups to:
  - (a) The Scrutiny Committees;
  - (b) The other Committees;
  - (c) Outside bodies on which the Council wishes to be represented;and to appoint the Chairs and Vice-Chairs of the Scrutiny Committees, and other Committees or outside bodies as necessary;
- 4.11.11 To agree the appointment of alternate members of the Scrutiny Committees and the other Committees in accordance with this Constitution (except the Cabinet);
- 4.11.12 To approve a schedule of ordinary meetings of the Council for the municipal year and approve a schedule of ordinary meetings of the Scrutiny Committees and the other Committees; and,
- 4.11.13 To consider any other ordinary business set out in the notice convening the meeting.

4.12 No other business may be transacted at the Annual Meeting except with the agreement of the Mayor.

### Ordinary Meetings

4.13 Ordinary Meetings of full Council will take place in accordance with a programme decided at the Annual Meeting.

### The Agenda

4.14 The agenda of Ordinary Meetings shall be as follows and in the following order, unless the Mayor decides otherwise:

- 4.14.1 To elect a Councillor to chair the meeting if the Mayor and Deputy Mayor are absent;
- 4.14.2 To receive apologies for absence
- 4.14.3 To receive any declaration of interests from any councillor;
- 4.14.4 Approval of the minutes of the last meeting and any Extraordinary Meetings. The Mayor shall move that the minutes be approved and, if so approved, shall sign them as a correct record. There shall be no discussion on the minutes except a Councillor may move an amendment as to their factual accuracy which shall be voted on without discussion;
- 4.14.5 Receive any announcements from the Mayor;
- 4.14.6 Receive any announcements from the Chief Executive;
- 4.14.7 Receive any announcements from the Leader of the Council (or a Cabinet Member nominated by the Leader) for a maximum time of **three minutes**;
- 4.14.8 To receive any response to the Leader of the Council's announcement from the Leader of the Opposition for a maximum time of **one minute**;
- 4.14.9 To consider any public statements;
- 4.14.10 To consider Councillor questions;
- 4.14.11 To receive any petitions;
- 4.14.12 To receive any items of business for decision by full Council. The Chief Executive will determine what items of business are placed on the Council agenda ensuring it discharges its statutory duties and powers. The Chief Finance Officer and the Monitoring Officer may require items to be included on the agenda in the discharge of their statutory duties; and
- 4.14.13 To consider any motions before full Council submitted in accordance with these Rules;
- 4.14.14 To agree any seat allocation to Committees of the Council, the Scrutiny Committees or any outside bodies.

4.15 Only business specified in the Council summons may be transacted at an Ordinary Meeting except as set out below in respect of a Themed Meeting, Urgent Items of Business and the Council Tax Setting Meeting

### **Urgent Items of Business**

4.16 The Mayor may agree that an item of business not included in the agenda for a meeting sent with the summons may be taken for reasons of urgency (which must be specified) following receipt of the Monitoring Officer's advice.

4.17 So far as is practicable, public notice will be given of any urgent item of business.

### **Council Tax Setting Meeting**

4.18 Each year the Council must hold a meeting for the purpose of setting Council Tax and Council's budget for the following year for agreement by midnight on 10 March.

4.19 These Rules set out specific provision for the length of speeches, voting and the approval of the Council Tax and budget at this meeting and the following additional rules shall apply.

4.20 The only business transacted at the meeting will be:

4.20.1 The setting of the Council Tax for the following year;

4.20.2 The agreement of the Council's budget and related decisions determined by the Council's Chief Finance Officer;

4.20.3 If it is the final meeting before the end of the Financial Year, any decisions that are required by law to be made by full Council; and,

4.20.4 Any business agreed by the Mayor following advice from the Monitoring Officer.

4.21 Councillors are required under s.106 of the Local Government & Finance Act 1992 to declare if they are in any arrears of Council Tax which have remained unpaid for a period of two months or more at the date of the meeting. Any Councillor making such a declaration may not vote on the setting of the Council Tax.

### Amendments to the budget and Council Tax

4.22 Proposed amendments to the setting of the Council Tax and budget will be submitted to the Monitoring Officer by a Political Group or an independent Councillor by no later than 12 noon on the Friday preceding the meeting to enable the Council's Chief Finance Officer to advise the budget setting meeting on the legality of the proposed amendment.

~~4.23 The Chief Finance Officer may, but is not required to, advise the mover of the amendment but, for the avoidance of doubt, the legality of the amendment is the sole responsibility of the mover of the amendment.~~

### **Extraordinary Meetings**

~~4.244.23~~ An extraordinary meeting of full Council may be convened at other times by:

4.24.14.23.1 The Mayor; or,

4.24.24.23.2 The Monitoring Officer or Chief Finance Officer to consider a report in the discharge of their statutory duties; or.

4.24.34.23.3 Five Councillors as set out below.

4.254.24 Five Councillors may present a requisition to the Mayor to hold an Extraordinary Meeting. A requisition must:

4.25.14.24.1 Be in writing (electronic format ~~in including signatures~~ is acceptable);

4.25.24.24.2 Be signed (email confirmation is acceptable) by **at least five Councillors** and identifying a Councillor to whom the Mayor, following consultation with the Chief Executive and Monitoring Officer, should respond (the “Lead Councillor”);

4.25.34.24.3 State the purpose of the meeting including a motion which sets out why an extraordinary meeting is necessary in accordance with these Rules;

4.264.25 If the Mayor either refuses to call an Extraordinary Meeting or fails to call a meeting within seven days of the presentation of the requisition, the five Councillors may call an Extraordinary Meeting.

4.274.26 No other business may be transacted at an Extraordinary Meeting except with the agreement of the Mayor.

4.284.27 The Mayor may hold an Extraordinary Meeting on the same day as an Ordinary Meeting. The meeting will last for 90 minutes.

4.294.28 The Chief Executive may cancel an Extraordinary Meeting at any time if requested to do so in writing by the Lead Councillor.

### **Time and Place of Meetings**

4.304.29 The Proper Officer (the Chief Executive) will give notice to the public of the time and place of any meeting of the Council in accordance with the Access to Information Procedure Rules.

4.314.30 Unless otherwise determined or required by law, Council meetings will be held in the ~~Town Hall~~Civic Centre Chamber at 6.30pm~~[5pm]~~.

4.324.31 At least five clear working days before a meeting the Proper Officer (the Chief Executive) shall send a summons, signed by her or him, by post to every Councillor or leave it at their usual place of residence, or by email sent to a Councillor’s official email account.

4.334.32 The summons will give the date, time and place of each meeting and specify the business to be transacted. The summons will be accompanied by such reports as are available.



## Quorum

4.344.33 The quorum of a meeting shall be one third of the membership eligible to vote or the nearest whole number above one third.

4.354.34 If the Mayor counts the number of Councillors present at a full Council Meeting and declares there is not a quorum, then the meeting will adjourn immediately for a period of up to **fifteen minutes** to allow a quorum to be present (and the Mayor may allow more than one adjournment up to a total period of **fifteen minutes**).

4.364.35 If after a period of **fifteen minutes** there is still no quorum, the Mayor shall close the meeting and any remaining business will be considered at the next Ordinary Meeting or at a time and date fixed by the Mayor.

## Duration of Meetings

### Interruption of the meeting after three hours

4.374.36 If the business of **any** Council meeting has not been concluded within **three hours** (including any period of adjournment or otherwise), the Mayor must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion. These Council Procedure Rules except those relating to disorderly conduct and voting will be suspended.

### Motions and recommendations outstanding after three hours

4.384.37 If there are other motions or items of business on the agenda that have not been dealt with within the three hour time limit, the Mayor will ask the mover of the motion or item of business if they wish to withdraw the motion or item.

4.394.38 If the motion or item of business is not withdrawn by the mover, the motion or item will be deemed formally moved and seconded. and any amendments will be deemed to have been formally moved and seconded. No speeches will be allowed on these items and the vote will be taken in the usual way.

4.404.39 Items to make appointments will be considered as set out in these Rules but without debate.

### Extension of the duration of a meeting

4.414.40 The Mayor may extend the duration of a meeting to allow for a recorded vote to be held.

4.424.41 A Councillor may move that the length of the meeting is extended by up to **thirty minutes** if:

4.42.14.41.1 If the motion is moved before the expiry of three hours from the start of the meeting; and,

4.42.24.41.2 The motion is seconded and agreed by full Council without debate.



4.434.42 Only one motion to extend the length of the meeting may be moved and the Mayor may put to the vote a different period of extension to that move but no longer than **30 minutes** to ensure the effective and timely conduct of Council business.

4.444.43 When all the business on the meeting agenda is completed, the Mayor will close the meeting.

### **Voting at Meetings**

4.454.44 Unless provided otherwise in this Constitution, any matter will be decided by a simple majority of those Councillors physically present in the room and eligible to vote on the matter.

4.464.45 Voting in respect of the Budget and Policy Framework will comply with the additional Budget and Policy Framework Procedure Rules relating to those decisions set out under Section 5.

### **Mayor's casting vote**

4.46 If there is an equality of votes for and against on any matter, the Mayor shall have a casting vote. There is no restriction on how the Mayor chooses to exercise a casting vote.

### **Show of Hands**

4.47

### **Show of Hands**

Unless a recorded vote is validly demanded or required by law, the Mayor will take the vote by the use of electronic voting system for any matter ~~.show of hands, or if there is no dissent, by the affirmation of the meeting.~~

When the Mayor seeks a show of hands;

- i. (s)he will call for those in favour or against the matter being moved and any abstentions; and
- ii. where the outcome of the vote is clear from the show of hands or is unanimous, the Mayor may declare the outcome without any requirement to count the votes of individual Councillors.

~~Where available, the Mayor may require the use of electronic voting for any matter.~~

### **Recorded vote**

4.48 If seven Councillors physically present in the room demand it, the names for and against a decision, or abstaining from voting will be recorded and entered into the minutes.

- 4.49 A recorded vote must be taken at the Council Tax Setting Meeting in respect of the setting of the Council Tax and budget and any proposed amendments to these proposals.
- 4.50 The Monitoring Officer will call out Councillors' names who will in response indicate immediately if they are voting for or against the matter or are abstaining from voting.
- 4.51 In the event of an equality of votes on a recorded vote, the Mayor will have a casting vote which will be recorded.
- 4.52 Where available, electronic voting will be used to hold a recorded vote.

#### Right to require individual vote to be recorded

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

#### Voting on appointments

- 4.54 If there are more than two Councillors or other persons nominated for any position to be filled and there is not a majority of votes in favour of one Councillor / person, the name of the Councillor / person with the least number of votes will be removed from the list and new vote taken. This process will continue until there is a majority of votes for one Councillor / person.
- 4.55 Where there are two or more appointments to be made to an outside body and more nominations than there are appointments to be made, a vote will be taken on each appointment according to the process set out above at Rule 4.60.

#### **Councillors' Speaking Rights and Length of Speeches**

- 4.56 Councillors may only speak when provided for by these Rules and must remain silent when other Councillors speak or the Mayor is speaking.
- 4.57 Councillors ~~shall~~ may stand to speak, ~~unless the Councillor considers they are unable to stand to speak due to disability or other mobility issues, and in such a case no explanation need be provided by the Councillor if they wish whilst speaking.~~
- 4.58 Councillors shall be seated and remain silent when the Mayor speaks or requests a Councillor to stop speaking.

#### Length of speeches

- 4.59 Unless otherwise stated in these Rules, a Councillor shall speak for **four minutes** such time as may be fixed by the Mayor.
- 4.60 The following shall apply:

Speaker	Length of Speech
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Mover of motion	Five minutes (Leader's motion) Four minutes (all other motions)
Mover of amendment, seconder of motion or amendment	Four minutes
Right of reply	Four minutes
Mover of Leader's budget	Ten minutes
Mover of budget amendment	Five minutes
Secunder of budget or budget amendment	Four Minutes

4.61 The Mayor may reduce the length of speeches to ensure the business of a meeting remains within its set duration and to give as many speakers the opportunity to speak as is reasonable.

#### First and final speeches

4.62 Councillors shall remain silent during a Councillor's first speech in full Council or their final speech in full Council, as set out below.

4.63 Retiring Councillors are able to speak for **two minutes** about their final term of office at the final full Council meeting before the election.

#### Public Speaking Time

~~4.64 Up to three members of the public (the speaker) may make a statement to full Council that is relevant to an item of business on the meeting's agenda in accordance with the following rules.~~

~~4.65 Public speaking time may last no longer than **fifteen minutes**.~~

~~4.66 The speaker must give written notice of their wish to speak **by 12 noon on the third clear working before the meeting**.~~

~~4.67 The notice must be given to the Monitoring Officer and must include:~~

~~4.67.1 The name of the speaker; and,~~

~~4.67.2 Details of how the speaker's statement relates to an item of business on the meeting's agenda.~~

~~4.68 A speaker may speak for up to **three minutes** and will be taken in the order in which the notices are received.~~

~~4.69 If the speaker does not attend the meeting, the statement will not be heard or dealt with.~~

~~4.70 The Leader or a Cabinet Member nominated by the Leader may respond for **one minute** to any public speaker and there will be no supplemental questions or other speakers on the same matter. The Leader may elect to provide a written response.~~

~~4.71 Speakers may submit a copy of their statement either in advance or at the meeting and, if it is the case, a petition related to their statement. Unless the Monitoring Officer has rejected the right to speak under this Rule, a copy of the statement will be sent to all Councillors and published in the minutes.~~

~~4.72 The Monitoring Officer may reject a request to speak if:~~

~~4.72.1 It is not about a matter which is being considered as an item of business at the meeting;~~

~~4.72.2 It is defamatory, frivolous or offensive;~~

~~4.72.3 It is substantially the same matter which has been put at a meeting of the Council in the past six months;~~

~~4.72.4 If the speaker has previously spoken at any full Council meeting in the past six months; or.~~

~~4.72.5 It requires the disclosure of confidential or exempt information.~~

~~4.64 The Monitoring Officer may refer a speaker to a different body or person in the Council if their request does not comply with these Rules~~

#### 4.65 Residents' Question Time

4.66 At each ordinary meeting of the Council, there shall be 30 minutes for members of the public to ask questions. No questions may be asked at the Annual Council meeting or any Extraordinary meeting.

4.67 The procedure in relation to such questions shall be as follows:

4.68 A person resident in Southend may, if the question has been submitted in writing to the Committee Section (email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)) not later than 12.00pm, 9 clear working days before the date of the meeting of the Council, ask the relevant Cabinet Member any question(s) on any matter which the Council has powers or duties or which directly affects the Council. The question shall not exceed 150 words in length.

4.69 The Monitoring Officer may reject a question if it:

(i) is not about a matter for which the Council has responsibility, or which directly affects Southend;

(ii) seeks to ask Council to act in a way that is ultra vires (outside its powers), unlawful, or illegal;

(iii) is defamatory, frivolous or offensive;

(iv) is substantially the same as a question which has been put at a Council meeting in the last 6 months;

(v) requires the disclosure of confidential or exempt information.

4.70 The Mayor shall call the questions in the order that they have been received and the member of the public submitting the question shall then read it out. If the questioner is not present when the question is called, a written reply shall be provided.

4.71 There shall be no speech or discussion allowed on any question or reply.

4.72 Not more than two questions may be asked by any one person at any one meeting.

4.73 If there is insufficient time (30 minutes) to answer all public questions, a written reply will be sent to the questioner. -

### **Councillors' Questions**

4.74 Every Councillor may submit one question in writing for response by the Leader at Ordinary Meetings in accordance with Rules 4.81 – 4.91.

4.75 Questions submitted by a Political Groups **must**:

4.75.1 Relate to a matter that is the responsibility of the Council or the Cabinet;

4.75.2 Be submitted by the Political Group Leader or Whip; and

4.75.3 Must not include sub-questions (for example "a", "b," "c".) and where this is the case only the first sub-question (i.e. "a") will be accepted as the question without further reference to the Political Group asking the question.

4.76 Questions must be submitted in writing to the Monitoring Officer by **12 noon on the seventh clear working day before the day of the meeting** and the first two questions submitted will be accepted for each Political Group.

4.77 The Monitoring Officer **must** reject a question where:

4.77.1 It is not about a matter for which the Council or the Cabinet has responsibility;

4.77.2 It is defamatory, frivolous or offensive;

4.77.3 It is substantially the same as a question which has been put at a meeting of the Council in the past six months;

4.77.4 It requires the disclosure of confidential or exempt information; or

4.77.5 Requests an act or omission which would be unlawful or which the Council could not implement in practice.

4.78 The Monitoring Officer may, if the deadline at Rule 4.82 above has not passed, offer a Political Group submitting the question the opportunity to amend a question to comply with these Rules, and may accept a revised question if received before the deadline.

4.79 For the avoidance of doubt, neither the Monitoring Officer nor any other Officer is under any obligation to assist in the revision of any question.

- 4.80 A maximum of **twenty minutes** will be allocated for Councillors' Questions and no extensions shall be agreed.
- 4.81 The Leader, or if the Leader chooses, a Cabinet Member will provide written replies to all valid questions but have discretion to provide an oral response instead as set out at Rule 4.89 – 491 below.
- 4.82 Written questions and replies will be taken as read in the meeting.
- 4.83 If the Leader and / or Cabinet Member provides an oral response they have **one minute** to speak.
- 4.84 The Political Group Leader (or their nominee from the Political Group) may ask a supplementary question in respect of the Political Group's questions but:
- 4.84.1 **Only** in respect of the content of the written or oral reply;
  - 4.84.2 No statements can be made; and
  - 4.84.3 Political Group Leader (or their nominee from the Political Group) has up to **one minute** to speak.
- 4.85 The Leader and / or Cabinet member has **one minute to respond** but may elect to respond in writing and any responses will be sent to all Councillors and published as an appendix to the minutes of the meetings.

#### **Submission of Petitions**

- ~~4.86 Councillors, may by raising their hand, submit one or more petitions to the Mayor and, in doing so, may state the purpose of the petition and on whose behalf it is submitted to the meeting but no speeches are permitted.~~
- ~~4.87 Petitions submitted at full Council may only relate to a Councillor's Ward or an area including the Councillor's Ward.~~
- ~~4.88 15.3 Councillors must provide Democratic Services written notice **on or before 12 noon of the Friday before the meeting** that they wish to submit a petition, and provide details as to the subject matter of the petition.~~
- ~~4.89 The Mayor will pass any petition to the Chief Executive or relevant Council Director for an appropriate response.~~

#### **Presentation of Petitions**

- 4.86 At the meeting of the Council any Councillor may present a petition. The Councillor presenting the petition shall satisfy themselves that the petition is proper to be received.
- 4.87 All petitions must be received by the Committee Section (email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)) at least 12 clear working days<sup>1</sup> before the meeting either in paper or electronic form (created through the use of the Council's online e-petitions facility).

4.88 A petition can be presented at Council if: (a) It contains the signatories and addresses of anyone who lives, works or studies in the City (including under 18s);(b) It is relevant to some matter in relation to which the Council has functions, or which affects the area of the Council, or part of it, or the inhabitants of the area or some of them; and (c) It asks for action to be taken or ceased.

4.89 A petition shall not be presented at Council if:

(a) It is submitted in connection with a planning or licensing decision or any matter where there is a statutory right of appeal or review. Such petitions will be dealt with under the relevant statutory provisions;

(b) It relates to a matter which is currently the subject of a formal public consultation process being undertaken by the Council;

(c) It criticises the conduct of a named individual;

(d) It is vexatious or abusive or otherwise inappropriate;

(e) It is identical or similar to a petition submitted in the past 6 months; or

(f) It is an electronic petition which has not been created using the Council's online e-petitions facility.

4.90 The presentation of the petition shall be limited to not more than one minute and shall be confined to reading out, or summarising the purpose of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition as the Councillor thinks fit.

4.91 Petitions shall be presented in the order in which notice of them is received by the Committee Section.

4.92 The Council shall refer petitions signed by 100 or more persons to the Cabinet, Cabinet Committee or relevant Scrutiny Committee as it thinks fit. The Council shall refer petitions signed by less than 100 persons to the Chief Executive or relevant Executive Director for response as appropriate.

### **Agenda Items**

4.904.93 Agenda items requiring a full Council decision will:

4.90.14.93.1 Be moved and seconded but this may be done formally without speeches (by reference to moving the recommendations or otherwise); and,

4.90.24.93.2 Will otherwise be subject to the Rules for motions as set out below.

### **Motions on Notice**

4.914.94 The following Motions on notice shall be considered at Ordinary Meetings:

<b>Mover</b>	<b>Length of Time for Consideration of a motion</b>
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Leader (who may delegate the moving of the motion to another Councillor in their Political Group)	Thirty minutes
Main opposition Political Group	Twenty minutes
Up to three motions submitted by Councillors or Political Groups and agreed for debate by the Whips Meeting	Twenty minutes per motion (up to sixty minutes in total)
<del>Motions which the Whips Meeting agree have the support of all the Political Groups will be moved without debate by the Chief Whip and seconded by the Main Opposition Whip.</del>	N/a

4.95 Motions submitted by Councillors but not considered at a full Council meeting as set out in the table above will be referred by Democratic Services to the relevant Cabinet Member and Council Director for reply or referral to the relevant Councillor body or meeting.

4.924.96 Any motion that relates to the functions of the executive shall be proposed and seconded and then immediately referred to Cabinet without debate.

4.934.97 A Councillor can propose one motion to the same meeting.

4.944.98 Democratic Services will publish:

4.94.14.98.1 Actions taken in response to motions that have been passed, including any reply from any external body; and

4.94.24.98.2 Actions taken in response to a motion submitted but not considered at full Council.

#### Submission of motions

4.954.99 A Councillor may submit a motion as follows:

4.95.14.99.1 The motion must be in writing by two Councillors who will propose and second the motion;

4.95.24.99.2 The motion must be submitted to Democratic Services at least **nine clear working days before the publication date for the meeting**; and,

4.95.34.99.3 The motion must clearly set out the decision or action that the Council is being asked to undertake, and if the decision or action is an executive function that can only be discharged by the Cabinet, the motion must state that it is a request to the Cabinet to consider the decision or action.



Motion to rescind a previous motion

4.964.100 A motion or amendment to rescind a decision made at a Council meeting **within the past six months** cannot be moved unless the notice of motion is signed by the number of Councillors that would constitute a quorum of the Council.

4.974.101 When the Council has determined any such motion or amendment, a Councillor cannot propose a similar motion **within six months of the date of the determination**.

Submission of motions on urgent matters

4.984.102 The Mayor may accept a motion submitted after the deadline for the submission of motions where (s)he determines the motion:

4.98.14.102.1 Complies all other Rules relating to motions;

4.98.24.102.2 Relates to matters that arose after the deadline for the submission of motions on notice; and

4.98.34.102.3 It is a matter which cannot reasonably be considered by the next Council meeting or by another Council body or Officer before the next meeting.

4.994.103 The Mayor shall seek the advice of the Monitoring Officer when considering a motion submitted under Rule 4.104.

The scope and validity of motions

4.1004.104 The Monitoring Officer must reject a motion if it is:

4.100.14.104.1 About a matter intended for inclusion on the published agenda for that meeting;

4.100.24.104.2 About a matter for which the Council has no power to act, or affect the desired outcome, other than motions that request the Council make representations to regional government (if any) or central government;

4.100.34.104.3 About a matter that is delegated for determination by another Council body or may be determined by an Officer acting under delegated powers (e.g., individual regulatory decisions);

4.100.44.104.4 Defamatory, frivolous, offensive or insulting to any person or persons;

4.100.54.104.5 The same or substantially the same as a motion which has been put at a

meeting of full Council in the **past six months**;

4.100.64.104.6 Requires the disclosure of confidential or exempt information; or

4.100.74.104.7 Requires an act or omission which is either unlawful or incapable of having practical effect.

4.1014.105 The Monitoring Officer may, but is not required to, advise a councillor submitting a motion on its contents but the sole responsibility for compliance with these Rules rests with the Councillor submitting the motion.

#### Motions ~~of no confidence in the~~ to remove the Leader

4.1024.106 The Leader can only be removed by a resolution of full Council made on notice and in accordance with the procedure set out in the Cabinet Procedure Rules set out under Part 4 of this Constitution

4.1034.107 Where a motion of no confidence in the Leader is passed, the full Council must immediately elect a new Leader.

### **The Conduct of Debates**

#### Moving and withdrawing motions

4.1044.108 A motion must be moved by the Councillor who submitted it ~~or another Councillor nominated by the same Political Group~~, or the Mayor shall treat the motion as withdrawn.

4.1054.109 The mover of a motion may withdraw their motion:

4.105.14.109.1 By notice in writing to Democratic Services **up to 5pm the day before meeting**; or,

4.105.24.109.2 At the meeting before the item is proposed with the consent of the seconder or during the debate with the consent of full Council and without further debate.

#### Alteration of motions

4.1064.110 A Councillor may seek to alter a motion directly after (s)he has moved the motion and at no other time.

4.1074.111 Only alterations that could be moved as amendments can be sought and, for the avoidance of doubt, alterations may include an alteration to accept one or more proposed amendments.

4.1084.112 The Mayor must seek the meeting's consent to the alteration, which will be signified without discussion.

4.1094.113 The Mayor may require a written copy of the altered motion to be drafted and circulated to all Councillors, and may adjourn the meeting for this purpose.

4.1104.114 Minor alterations to correct typographical errors or other minor errors that do not impact on the meaning of the motion may be moved by the Mayor and will be agreed with the consent of the meeting without debate.

### **Amendments to Motions**

4.1114.115 Amendments to motions must be submitted by a Councillor.

4.1124.116 Only one amendment may be received in the name of a Councillor.

4.1134.117 Amendments must be submitted to Democratic Services at least **2 days before the day of the meeting** and:

4.113.14.117.1 Must be in writing and signed by two Councillors as proposer and seconder;

4.1144.118 An Amendment must be relevant to the motion and must not negate the motion or replace the notice of motion with a completely new motion, and can:

4.114.14.118.1 Refer the matter to an appropriate body or individual for consideration or reconsideration;

4.114.24.118.2 Leave out words;

4.114.34.118.3 Leave out words and insert or add other words; or

4.114.44.118.4 Insert or add words.

4.1154.119 The Monitoring Officer may reject an amendment if it does not comply with these Rules. The Monitoring Officer may provide advice to the Councillor or Political Group submitting the amendment but it is the sole responsibility of the Councillor or Political Group to ensure that the amendment complies with these Rules.

#### Moving and seconding an amendment

4.1164.120 An amendment must be moved and seconded before it can be debated.

4.1174.121 A Councillor seconding an amendment may formally second the amendment and reserve their right to speak to later in the debate. It is a matter of discretion for the Mayor to determine if there is sufficient time to allow

4.1184.122 the seconder to speak.

4.1194.123 The mover of an amendment may seek permission to alter their amendment after they have moved the amendment and before it is seconded and at no other time.

4.1204.124 Only alterations that could be moved as amendments can be sought and, for the avoidance of doubt, alterations may include alteration to accept one or more other proposed amendments.

4.1214.125 The Mayor must seek the meeting's consent to the alteration, which will be signified without discussion.

4.1224.126 The Mayor may require a written copy of the altered amendment to be drafted and circulated to all Councillors and may adjourn the meeting for this purpose.

4.1234.127 Minor alterations to correct typographical errors or other minor errors that do not impact on the meaning of an amendment may be moved by the Mayor and will be agreed with the consent of the meeting without debate.

4.1244.128 The mover of an amendment may withdraw their amendment:

4.124.14.128.1 By notice in writing to Democratic Services **up to 5pm on the day of the meeting**; or

4.124.24.128.2 At the meeting with the consent of full Council and without debate.

### **The Debate**

4.1254.129 After the motion and any amendments have been moved and, where necessary, seconded, the Mayor will invite Councillors who have not moved or seconded the motion or an amendment to speak on the motion and any amendments **as a single debate**.

4.1264.130 Councillors wishing to speak must raise their hands at this time so that their names can be taken by the Mayor. No other speakers will be allowed except seconders who have reserved their right to speak.

4.1274.131 The selection of speakers is at the Mayor's discretion who will have regard to the desirability of the following:

4.127.14.131.1 Reflecting the overall political proportionality of the Council and the consideration of different points of view so far as is reasonable in the time available;

4.127.24.131.2 Hearing from a diversity of speakers over the course of the meeting; and

4.127.34.131.3 Where there is sufficient time to hear from all those wishing to speak.

4.1284.132 The Mayor may alter the length of speaking time in time limited debates where the estimated time to be taken by the number of Councillors wishing to speak exceeds the time available.

4.1294.133 The Mayor may, if (s)he considers it conducive to effect debate, allow for debates on any amendments or the substantive motion separately and take a vote on each amendment after it is debated before debating and voting on the original motion (or if any amendments are passed, the amended substantive motion).

### When a Councillor may speak again

4.1304.134 A Councillor may only speak **once** on an item of business or a motion except:

4.130.14.134.1 To move or second a procedural motion which may be moved during a debate;

4.130.24.134.2 To make a point of order or personal explanation as defined by these Rules; and,

4.130.34.134.3 To exercise a right of reply.

### Right of reply

4.1314.135 The mover of the motion has a right of reply at the close of the debate. The right of reply must be restricted to replying to issues raised by other Councillors in moving amendments or in the course of the debate.

### **Voting**

4.1324.136 Where there are no amendments, a vote is taken on the motion only.

4.1334.137 Where an amendment or amendments are moved and seconded, they shall be voted on first and the voting shall take place as set out below in Rules 4.151 – 4.155.

#### Voting where there is one amendment

4.1344.138 If the amendment is not carried, the Council will then vote on the original motion.

4.1354.139 If the amendment is carried, the motion is amended and becomes the “substantive motion”.

4.1364.140 A second vote is then held as the substantive motion and if carried it becomes a decision of full Council.

#### Voting on multiple amendments

4.1374.141 If there is more than one amendment they shall be voted upon in order, and:

4.137.14.141.1 The voting shall move to the next amendment without amending the motion.

4.137.24.141.2 Where they are carried, they shall amend the motion or amended motion to become the substantive motion; and

4.137.34.141.3 There shall be a final vote on the substantive motion.

4.1384.142 If the Mayor considers it necessary (s)he may require an amended motion and / or the final substantive motion to be drafted and circulated to all Councillors and / or read out to all Councillors at any stage before a vote is taken.

### **Motions which may be Moved Without Notice**

4.1394.143 The following motions may be moved without notice:

4.139.14.143.1 To appoint a Chair of the meeting where the Mayor and Deputy Mayor are not available to chair the meeting;

4.139.24.143.2 To change the order of business of the meeting;

4.139.34.143.3 To refer a matter to the appropriate body or individual;

4.139.44.143.4 To appoint a Committee or a member of a Committee;

4.139.54.143.5 To withdraw a motion

4.139.64.143.6 To proceed to the next item of business;

4.139.74.143.7 That the question be now put;

[4.139.84.143.8](#) To adjourn a debate;

[4.139.94.143.9](#) To adjourn a meeting;

[4.139.104.143.10](#) To suspend one or more these Council Procedure Rules so far as is permitted in these Rules and only in the meeting or for part of a meeting;

[4.139.114.143.11](#) To exclude the public and press in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution; and

[4.139.124.143.12](#) To not hear further a Councillor named under these Rules or to exclude the Councillor from the meeting.

### **Closure Motions**

[4.1404.144](#) The following closure motions may only be moved when the motion and any amendments have been moved and, where required, seconded.

#### To proceed to the next item of business

[4.1414.145](#) If a Councillor moves a motion to proceed to next business, the Mayor will:

[4.141.14.145.1](#) Ask if the motion is seconded and if so;

[4.141.24.145.2](#) Consider whether the item has been sufficiently discussed and if so;

[4.141.34.145.3](#) Will put the procedural motion to the vote.

[4.1424.146](#) If the procedural motion is carried, the Mayor will give the mover of the original motion a right of reply, and then move to next business without a vote.

#### To put questions to the vote

[4.1434.147](#) If a Councillor moves a motion that the question is now put, the Mayor will:

[4.143.14.147.1](#) Ask if the motion is seconded and if so;

[4.143.24.147.2](#) Consider whether the item has been sufficiently discussed and if so;

[4.143.34.147.3](#) Will put the procedural motion to the vote.

[4.1444.148](#) If the vote is passed, the Mayor will give the mover of the original motion a right of reply before putting her/his motion and / or any amendments to the vote.

#### To adjourn the debate

[4.1454.149](#) If a Councillor moves a motion to adjourn the debate, the Mayor will:

[4.145.14.149.1](#) Ask if the motion is seconded and if so;

[4.145.24.149.2](#) Consider whether the item has been sufficiently discussed or cannot reasonably be sufficiently discussed on that occasion and (s)he considers this is the case, the Mayor will put the procedural motion to the vote.

[4.1464.150](#) if the vote is passed, the Mayor will give the mover of the original motion a right of reply and the motion will be adjourned to the next meeting or such other meeting as agreed.

### **Point of Order**

4.1474.151 Any councillor may make a point of order to the Mayor alleging that there has been a breach of these Council Procedure Rules or any other statutory provision.

4.1484.152 A councillor making a point of order must rise to speak stating to the Mayor that:

4.148.14.152.1 S/he wishes to make a point of order; **and**,

4.148.24.152.2 Specifying the Council Procedure Rule or statutory provision that has been breached and the way in which s/he considers it has been broken.

4.1494.153 The Mayor shall consider whether a valid point of order has been raised and:

4.149.14.153.1 If so, take any necessary action;

4.149.24.153.2 If not, continue with the business of the meeting.

4.1504.154 The Mayor's ruling is final.

### **Point of Personal Explanation**

4.1514.155 A Councillor who has already spoken in a debate may make a personal explanation where the Mayor agrees that the Councillor:

4.151.14.155.1 Has been named by another Councillor during the debate; and

4.151.24.155.2 In a manner which reflects adversely upon the reputation of the named Councillor.

4.1524.156 A Councillor who wishes to make a personal explanation must make the request at the end of the current Councillor's speech in accordance with following procedure:

4.152.14.156.1 The Councillor must rise (unless the Councillor considers they are unable to stand to speak due to disability or other mobility issues, and in such a case no explanation need be provided by the Councillor) to indicate to the Mayor that they wish to make a personal explanation specifying the grounds for the request;

4.152.24.156.2 The Mayor will either agree or refuse the request and the Mayor's decision is final; and

4.152.34.156.3 In making a personal explanation, the Councillor must only address the comment in respect of the Councillors' reputation.

### **Press and Public: Access and Exclusion**

4.1534.157 Members of the press and public are permitted to attend all meetings in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.



[4.1544.158](#) Members of the press and public may only be excluded from a meeting in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.

### **Recording and Filming**

[4.1554.159](#) Any person, including Councillors, may record or film Council proceedings when the meeting is held in public subject to the following:

[4.155.14.159.1](#) Filming or recording must not disrupt the business and conduct of the meeting;

[4.155.24.159.2](#) In the case of filming, the person filming must remain in the allocated area for filming or a place otherwise agreed by Democratic Services;

[4.155.34.159.3](#) Refrain from filming or recording any member of the public, except where part of the formal proceedings; and

[4.155.44.159.4](#) During a private session of the meeting must not leave any form of recording device in the meeting room, and Councillors remaining in the meeting must not record or film any private session of the proceedings.

[4.1564.160](#) Permission to film or record Council meetings does not extend to filming or recording of any matter outside of the formal proceedings or before or after the meeting.

[4.1574.161](#) Councillors must ensure that they remain able to fully participate in the meeting whilst filming or recording the meeting.

### **Councillor Misconduct During Meetings**

[4.1584.162](#) If during the course of a meeting a Councillor fails to comply:

[4.162.1](#) [With the NOLAN principles](#)

[4.158.14.162.2](#) ~~With~~ these Rules; or,

[4.158.24.162.3](#) An instruction of the Mayor; or,

[4.158.34.162.4](#) A decision of the Council;

or when speaking uses offensive, intimidatory or abusive language towards any Councillor, Officer or other person, the Mayor may instruct the Councillor to be seated and not to speak.

[4.1594.163](#) If the Councillor continues to misbehave or otherwise refuses to comply with the Mayor's instructions, the Mayor may:

[4.159.14.163.1](#) Move without debate that the Councillor be suspended from and must leave the meeting, and

[4.159.24.163.2](#) If the motion is seconded, the Council shall vote on the motion.

[4.1604.164](#) If the motion is carried but the offending Councillor refuses to leave the meeting, the Mayor may take steps to remove the Councillor from the meeting.



### **Disturbance by a Member of the Public**

[4.1614.165](#) Members of the public shall not interrupt or interfere with the effective conduct or business of a meeting.

[4.1624.166](#) Mobile phones and similar devices shall be placed on 'silent' and shall not be used during a meeting otherwise than as permitted elsewhere in these Rules.

### **Removal of a Member of the Public**

[4.1634.167](#) If one or more members of the public interrupts the effective conduct of the business of a meeting the Mayor may warn him/her, and if s/he interrupts again, the Mayor may order his/her removal from the meeting.

### **General Disturbance**

[4.1644.168](#) In case of a general disturbance in any part of the chamber open to the public for the purpose of attending a meeting, the Mayor may order that part of the chamber to be cleared.

### **Notification of Cancellation of a Meeting**

[4.1654.169](#) The Chief Executive after consultation with the Mayor may issue, owing to exceptional circumstances, a Public Notice of Cancellation of Meeting. The notice must state reasons for cancellation.

### **Application of the Council Procedure Rules**

[4.1664.170](#) These Council Procedure Rules apply to all meetings of the Council.

[4.1674.171](#) The Cabinet Procedure Rules set out under Part 4 of this Constitution apply only to meetings of the Cabinet.

[4.1684.172](#) The Committee Procedure Rules are set out under Part 3 of this Constitution and identify which of these Council Procedure Rules are incorporated into the Committee Procedure Rules.

### **Suspension or Amendment of the Council Procedure Rules**

[4.1694.173](#) Any or all of these Council Procedure Rules except the Rules set out below may be suspended by a majority if at least **one half of the whole number of Councillors who are physically present in the room and eligible to vote.**

[4.1704.174](#) Any suspension of these Rules will only be for the item or meeting specified in the motion. Motions to suspend the Council Procedure Rules must specify the Rule or Rules the motion seeks to suspend.

[4.1714.175](#) The Council Procedure Rules which cannot be suspended are:

[4.171.14.175.1](#) Annual Meeting (Rules 4.12 – 4.14)

[4.171.24.175.2](#) Council Tax Setting Meeting (Rules 4.24 – 4.29)

[4.171.34.175.3](#) Extraordinary Meetings – right of five Councillors to requisition a meeting and the Mayor's power to call the meeting (Rule 4.30.1 and 4.30.3)

[4.171.44.175.4](#) Requirements for a summons (Rules 4.38 – 4.39)

[4.171.54.175.5](#) Duration of the meeting (Rules 4.43 – 4.50)

[4.171.64.175.6](#) Quorum for a meeting (Rules 4.40 – 4.42)

[4.171.74.175.7](#) Voting (Rules 4.51 – 4.61)

[4.171.84.175.8](#) Exclusion of the press and public (Rule 4.171)

[4.171.94.175.9](#) Rules as to conduct and removal (Rules 4.175 – 4.181 )

[4.1724.176](#) Any motion to add to, vary or revoke these Council Rules of Procedure will, if proposed and seconded, stand adjourned without discussion to the next Ordinary Meeting of the full Council.

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## **PART 2 – THE COUNCIL**

### **SECTION 5. THE BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

#### **The Budget and Policy Framework**

- 1.1 The Budget and Policy Framework refers to the financial and policy decisions of the Council where:
  - 1.1.1 The Leader and Cabinet makes recommendations for the policy or budget decision to full Council; and,
  - 1.1.2 The full Council makes the final decision to adopt the Leader and Cabinet's recommendations. If full Council does not accept or fully accept the Leader and Cabinet's recommendations, the procedure set out below must be followed.
- 1.2 The Leader and Cabinet is responsible for the implementation of the Budget and Policy Framework.
- 1.3 The following Budget and Policy Framework Procedure Rules (hereinafter in this section 5 the Rules) are mandatory standing orders required to be adopted by the Council under the Local Authorities (Standing Orders) (England) Regulations 2001, to set out how the Budget and Policy Framework will be agreed.

#### **Policy Framework Decisions**

##### Leader and Cabinet policy proposals

- 1.4 The Leader and Cabinet will formulate draft plan or strategy decisions with the support of Officers and will determine whether to:
  - Undertake public or other stakeholder engagement and / or consultation; and / or,
  - Proactively engage with a Select Committee for the purpose of scrutiny, including as part of the annual overview and scrutiny work plan.
- 1.5 The Leader and Cabinet will take into account the outcome of these processes in the formulation of the draft plan or strategy made to full Council.
- 1.6 The Leader and Cabinet will submit the draft plan or strategy to full Council of adoption.

##### Council's Consideration of Leader and Cabinet draft plan or strategy

- 1.7 Full Council will consider the draft plan or strategy and take one of the following decisions:
  - 1.7.1 Adopt the Leader and Cabinet's proposals and if so the draft plan or strategy is agreed as Council policy; or,
  - 1.7.2 Inform the Leader of any objections it has to the Leader and Cabinet's draft plan or strategy, including any amendments to the proposals.

- 1.8 If the Council has objections to the Leader and Cabinet's initial proposals, it must:
- 1.8.1 Give the Leader instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it; and,
  - 1.8.2 Specify a period ("the relevant period") of **at least 5 working days** beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may reconsider the draft plan or strategy.

Leader's consideration of the Council's objections

- 1.9 The Leader may, within the relevant period, give notice in writing to the Monitoring Officer of her/his intention to:
- 1.9.1 Submit a revised draft plan or strategy to full Council including the reasons for any amendments; or,
  - 1.9.2 Inform full Council of its disagreement with the Council's objections to the draft plan and strategy and the reasons for the disagreement.
- 1.10 If the Leader does not take the above action within the relevant period, the Council's decision on the draft plan or strategy (with any amendments) will become effective at the expiry of the relevant period, and notice will be given in accordance with the Access to Information Rules Procedure Rules set out under Part 1 of this Constitution.

Full Council's final decision

- 1.11 If the Leader gives notice in writing to submit a revised draft plan or strategy, or disagrees with the Council's objections to the original draft plan or strategy, either:
- 1.11.1 At the next Ordinary Meeting; or,
  - 1.11.2 At an Extra Ordinary Meeting, meeting for the purpose, if a decision needs to be made at an earlier date.
- 1.12 The Council's final decision to adopt the plan or strategy must take into account, where applicable, the Leader and Cabinet's revised draft plan or strategy, or disagreement with the Council's objections.

**The Budget Framework: Setting the Annual Council Tax and Budget**

The formation of budget proposals

- 1.13 In the financial year, the Leader and Cabinet with the support of Officers will formulate draft budget proposals and will:
- Determine the process for any public or other stakeholder engagement and / or consultation; and / or,
  - Agree with a Select Committee a process for the scrutiny of the proposals.
- 1.14 The Leader and Cabinet will take into account the outcome of these processes in the formulation of the draft budget made to full Council.

1.15 The Leader and Cabinet will submit its draft budget proposals to full Council in accordance with the procedure set out below.

Leader and Cabinet's budget estimates or amounts

1.16 Subject to the provisions of Rule 5.26, in any financial year the Leader and Cabinet shall submit to full Council for its consideration in relation to the following financial year:

1.16.1 Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 – 49 of the Local Government Finance Act 1992;

1.16.2 Estimates of other amounts to be used for the purposes of such a calculation;

1.16.3 Estimates of such a calculation; or,

1.16.4 Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992.

1.17 The proposals submitted in accordance with Rule 5.18 shall be called collectively the "budget estimates or amounts".

The budget setting meeting: full Council's consideration of the budget estimates or amounts

1.18 The full Council shall consider the Budget Estimates or Amounts at its annual budget setting meeting.

1.19 If the Full Council approves the budget estimates or amounts without amendment, this decision will be final.

1.20 If the Full Council has any objections to the Budget Estimates or Amounts, it must:

- Before it makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 5.18 above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992;
- Inform the Leader of any objections which it has to the budget estimates or amounts; and,
- Give the Leader instructions requiring the Cabinet to reconsider, in the light of those objections, those budget estimates and amounts in accordance with the Council's requirements.

Leader and Cabinet's revised budget estimates and amounts

1.21 Where the Council gives instructions in accordance with Rule 5.22 above, it must specify a period ("the relevant period") of **at least five working days** beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may:

1.21.1 Submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with full Council's requirements, with the Cabinet's reasons for

any amendments made to the estimates or amounts, to full Council's consideration; or,

- 1.21.2 Inform the full Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

**Council's consideration of the Leader and Cabinet's revised budget estimates or amounts**

1.22 The full Council must meet after the expiry of the relevant period to make calculations (whether originally or by way of substitute) in accordance with the sections 32 – 37, or 43 – 49 of the Local Government Finance Act 1992, or issue a precept under Chapter IV of Part I of the Local Government Finance Act 1992.

1.23 When making the decisions in accordance with Rule 5.24 above, full Council must take into account the Leader's submissions under Rules 5.23.1 or 5.23.2 above including:

- Any amendments to the estimates or amounts that are included in any revised budget estimates or amounts;
- The Cabinet's reasons for those amendments;
- Any disagreement that the Cabinet has with any of the Council's objections, the Cabinet's reasons for that disagreement.

**The Exclusion of these Rules**

1.24 Rules 5.18 – 5.25 shall not apply in relation to:

1.24.1 Calculations or substitute calculations which an Authority is required to make in accordance with Section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and,

1.24.2 Amounts stated in precept issued to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of the Local Government Finance Act 1992.

**Recorded Vote**

1.25 A recorded vote will be held for any vote taken at the Council's budget setting meeting, including in respect of amendments.

**Decisions Outside of the Budget or Policy Framework**

1.26 Subject to the provisions of the Financial Procedure Rules set out under Part 7 of this Constitution when discharging executive functions, the Leader or the Cabinet may only take decisions which are in line with the approved Budget and Policy Framework.

1.27 If decision needs to be made outside of the approved Budget or Policy Framework the decision may only be taken by full Council, subject to the Rule 5.33 and 5.34 below in respect of urgent decisions outside the Budget and Policy Framework.

- 1.28 If decision is, or may be, may be contrary to the Budget and Policy Framework the advice of the Monitoring Officer and / or the Chief Financial Officer shall be obtained as to whether the decision make would be contrary to the approved Budget and / or Policy Framework.
- 1.29 If the advice of the Monitoring Officer or the Chief Finance Officer is that the decision would not be in line with the approved Budget and/ or Policy Framework, the decision must be referred to full Council unless the decision is a matter of urgency, in which case the provisions of Rules 5.33 and 5.34 below (urgent decisions outside the Budget and Policy Framework) shall apply.
- 1.30 Full Council may either:
- 1.30.1 Endorse a decision or proposal of the Leader or Cabinet that the as falling within the approved Budget and / or Policy Framework, in which case no further action is required save for the decision of full Council be minuted and circulated to all Councillors; or,
  - 1.30.2 Amend the budget and / or the policy or concerned to encompass the decision or proposal of the Leader or Cabinet and agree to the decision with immediate effect, in which case no further action is required save that the decision of full Council be minuted and circulated to all Councillors; or,
  - 1.30.3 Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to, or not wholly in accordance with the budget, and does not amend the approved budget or policy framework to accommodate the proposed decision, require the Leader or Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and / or the Chief Finance Officer within seven clear working days of the Council meeting and,
  - 1.30.4 Whatever decision the Leader or Cabinet takes at that meeting is final, bearing in mind that a decision taken outside the approved Budget or Policy Framework will be unlawful.

### **Urgent Decisions Outside the Budget and / or Policy Framework**

- 1.31 The Leader or Cabinet may make a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken if:
- Any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest;
  - It is not practical to convene a quorate meeting of the full Council within the requirements of the Access to Information Procedure Rules; and,

- The Chair of the relevant Select Committee (or in the absence of the Chair, the Vice-Chair) agrees that the decision is a matter of urgency.

1.32 The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the Chair of the relevant Select Committee (or in the absence of the Chair, the Vice-Chair) to the decision being taken as a matter of urgency must be noted on the record of the decision.

### **Virement**

1.33 Virement is the ability to meet increased expenditure or reduced income under one expenditure code from savings in another expenditure code. The Council's Rules on virement are detailed in the Financial Procedure Rules set out under Part 7 of this Constitution.

### **In-Year Changes to the Policy Framework**

1.34 No changes to any policy and strategy which make up the Policy Framework may be made except those changes:

- 1.34.1 Which will result in the closure, amendment or discontinuance of a service or part of a service to meet a budgetary constraint;
- 1.34.2 Which are necessary to ensure compliance with the law, ministerial direction, or government guidance; and
- 1.34.3 Which are within the scope set out for in-year changes in the policy document in question, or when the policy document was approved by full Council.



## **Part 3 COMMITTEES**

### **Section**

1. Committee Structure
2. Committee Procedure Rules
3. Planning Committee Procedure Rules
4. [Probity in Planning: Guidance to Councillors and Officers]
5. [Regulatory Sub-committee Hearing Procedure Rules]
6. Planning Committee and Terms of Reference
7. Regulatory Committee and Terms of Reference
8. Standards Committee and Terms of Reference
9. Audit and Governance Committee and Terms of Reference
10. General Purpose Committee
11. Health and Wellbeing Board Committee and Terms of Reference
12. Senior Appointments and Pay Committee and Terms of Reference

### **1. COMMITTEE STRUCTURE**

1.1 The Council has decided that certain non-executive functions which are not reserved to full Council will be the responsibility of the following Committees

- Planning Committee
- Licensing Committee
- Standards Committee
- Audit and Governance Committee
- General Purpose Committee
- Health and Wellbeing Committee
- Senior Appointments and Pay Committee

with Officers able to take decisions in accordance with the Scheme of Delegation to Officers set out under Part 7 of this Constitution.

1.2 The Committee structure, its terms of reference and seats for each committee is approved by full Council at the Annual Meeting, with the allocation of those seats dealt with outside of the meeting. Unless a Committee is subject to particular rules on its composition, the composition of a Committee must be politically proportionate and to the extent possible reflect the size of the Political Groups which make up the Council as a whole.

- 1.3 Each Committee is subject to the Committee Procedure Rules set out below at section 2 and the Access to Information Procedure Rules set out under this Constitution under Part 1 of this Constitution. The Planning Committee and [hearing sub-committees of the Regulatory Committee] have their own rules set out below under section 3 [and 5 respectively]. If circumstances arise which are not covered by the Committee Procedure Rules or such other rules as apply to a particular Committee, the Council Procedure Rules set out under Part 2 of this Constitution shall apply to those circumstances.
- 1.4 Committees carry out their functions in accordance with their terms of reference as set out below.
- 1.5 Unless prohibited from doing so under the law or this Constitution, Committees may delegate their functions and powers to sub-committees, and may also delegate functions and powers to Officers..

#### Working Groups

- 1.6 1.6 The Council, Cabinet or any Committee may from time to time establish working groups. The working group terms of reference and membership must be agreed by the parent body before the working group commences its work. Working groups have no formal decision making responsibilities but may provide advice or recommendations. A list of the working groups is maintained by the Council's Democratic Services team.

[Space Holder for Council / Committee Structure diagram]

## **2. THE COMMITTEE PROCEDURE RULES**

### **Purpose and Application**

- 2.1 These Committee Procedure Rules (the Rules) apply to all Council Committees and their sub-committees unless specified otherwise elsewhere in this Constitution, and govern the conduct of meetings of the Committees. These Rules must be read in conjunction with the Access to Information Procedure Rules set out under Part 1 of this Constitution.
- 2.2 The Planning Committee [and hearing sub-committees of the Regulatory Committee and the Standards and General Purpose Committee have their own rules set out below under section 3 [and 5 and respectively], of this Part 3, and section 14 of Part 6 of this Constitution.

### **Time and Place of Committee Meetings**

- 2.3 Full Council shall agree a schedule of Committee meetings at its Annual Meeting.
- 2.4 Additional Committee meetings may be held with the agreement of the Committee Chair taking advice from the Monitoring Officer, and only where there are items of business which can reasonably be deferred to the next scheduled meeting of the Committee.
- 2.5 The Proper Officer will notify the time and place of Committee meetings in the summons.
- 2.6 The summons will also specify the business to be transacted and will be accompanied by such reports as are available.
- 2.7 Committee meetings will take place at the Civic Centre or such other venue at the time specified in the summons.

### **Committee Chairs and Vice Chairs**

- 2.8 Full Council will appoint Committee Chairs and Vice Chairs at its Annual Meeting.
- 2.9 Vacancies in either office will be filled at the next meeting of full Council, including, if held, an Extraordinary Meeting of the Council.
- 2.10 The Chair must chair a Committee meeting if present.
- 2.11 If the Chair is absent from a meeting, the Vice Chair must chair the meeting if present.
- 2.12 If neither the Chair nor Vice Chair is present, the Committee shall appoint a Councillor to Chair the meeting as the first item of business.
- 2.13 The Chair of the meeting must Chair in accordance with these Rules and the Constitution and where necessary taking advice from the Democratic Services Officer and / or legal advisor present.

2.14 The Chair shall exercise a casting vote in Committee meetings on any item of business in respect of which there is an equality of votes for and against (see further Rules 2.51 and 2.52 below).

**Committee Membership**

2.15 Full Council will resolve what committees shall be appointed, and what shall be the terms of reference of each of those committees, and of how many voting members each committee shall comprise.

2.16 Full Council will also confirm the political proportionality required for each committee with the Group Leader or individual independent councillors agreeing the appointment.

**Committee Meeting Agendas**

2.17 Meetings will have an agenda similar to the example listed below:

2.17.1 To elect a Councillor to preside at the meeting in the absence of both the Chair and Vice Chair;

2.17.2 To approve the minutes of the last meeting;

2.17.3 To receive any declarations of interest from Councillors;

2.17.4 To receive referrals from full Council, the Cabinet or other Committees;

2.17.5 To receive reports, if any, from Officers, the Cabinet, and / or other Committees;

2.17.6 To deal with any outstanding business from the last meeting;

2.17.7 To consider any other business specified in the summons to the meeting.

2.18 A Committee meeting may not consider any business not included in the summons unless the Chair agrees to accept a late item on grounds of urgency and those reasons are recorded in the minutes.

**Quorum**

2.19 The quorum of a meeting shall be one quarter of the Committee membership eligible to vote or the nearest whole number above one quarter subject to a minimum quorum of three Councillors.

2.20 If the Chair counts the number of Councillors present at a meeting and declares there is not a quorum, then the meeting will adjourn immediately for a period of up to fifteen minutes to allow a quorum to be present (and the Chair may allow more than one adjournment up to a total period of fifteen minutes).

2.21 If after a period of fifteen minutes there is still no quorum, the Chair shall close the meeting and any remaining business will be considered at the next ordinary meeting of the Committee or at a time and date fixed by the Chair.

**Substitutes**

- 2.22 Subject to the provisions of this Rule 2.20 to Rule 2.25 any Councillor may act as a substitute for another Councillor if they are from the same Political Group at a Committee Meeting.
- 2.23 The purpose of substitutes is to maintain the quorum and political proportionality of Committee a substitute and should only be used when the usual Committee member is unable to attend a meeting by reason of illness, leave or other good reason.
- 2.24 Substitution is not permissible for the Audit and Governance Committee in accordance with guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- 2.25 Substitute Councillors must have undertaken any mandatory training that is a requirement for membership of the relevant Committee to be able to sit.
- 2.26 Where the Chair is substituted, the Vice Chair will chair the meeting if present.
- 2.27 Where both the Chair and the Vice Chair are substituted, the meeting will elect a Councillor from those present and entitled to vote to preside at the meeting.

**Substitution Procedure**

- 2.28 The relevant Councillor must notify their Group Leader and Democratic Services in writing of the proposed substitution (including the name of the substitute) as soon as possible and in advance of the relevant meeting.
- 2.29 In cases of urgency, verbal notification may be provided to Democratic Services with confirmation in writing. (If notification is provided at the meeting itself, it must be made before the meeting starts and to the Democratic Services Officer present and supporting the meeting).
- 2.30 The relevant Group Leader or Whip may change a substitution if the notice requirements above are complied with **before** the start of the relevant meeting, including to revert to attendance by the usual committee member.

**Limitations**

- 2.31 Substitute Councillors must be appointed for the whole of a committee meeting and the usual committee member has no right to attend the meeting as a committee member.
- 2.32 If a substitute Councillor attends a meeting of the Planning Committee or a Regulatory Committee, and an agenda item is part considered and the meeting adjourned to consider the matter at a later date, the substitute Councillor must attend the subsequent meeting to consider and determine that item.
- 2.33 Cabinet members may not be substitutes on Council Committees or the Overview and Scrutiny Committees or the Audit and Governance Committee.
- 2.34 Non-Cabinet members may not substitute on the Cabinet or Cabinet sub-committees.

**Duration of Committee Meetings**

e Extension of a Committee Meeting after Three Hours

- 2.35 If the business of any meeting has not been concluded within three hours (including any period of adjournment or otherwise), the Chair may adjourn or extend the meeting, for up to thirty minutes, or call for an immediate vote on the item under discussion.
- 2.36 If the Chair calls for an immediate vote pursuant to Rule 2.35, the vote will be taken in the usual way without any further discussion.
- 2.37 A Councillor may move that the length of the meeting is extended by up to thirty minutes if:
- 2.37.1 The motion is moved before the expiry of three hours from the start of the meeting;
- 2.37.2 Is seconded and agreed by the Committee without debate.
- 2.38 Only one motion to extend the length of the meeting may be moved and the Chair may put to the vote a different period of extension to that moved but no longer than thirty minutes to ensure the effective and timely conduct of Committee business.
- 2.39 When all the business on the meeting agenda is completed, the Chair will close the meeting.

**Voting at Committee Meetings**

- 2.40 Unless provided otherwise elsewhere in this Constitution, any matter will be decided by a simple majority of those Councillors present in the room at the time the question is put and eligible to vote on the matter.
- 2.41 Only Councillors may vote, except where the terms of reference of a Committee allow for voting by non-elected Committee members.
- 2.42 Unless a recorded vote is required by law or is validly demanded the Chair will take the vote by electronic means or a show of hands.
- 2.43 If there is an equality of votes for and against on any matter, the Chair shall have a casting vote. There is no restriction on how the Chair chooses to exercise a casting vote.

Recorded Vote

- 2.44 If three Councillors present at the meeting demand it, the names for and against a decision or abstaining from voting will be recorded and entered into the minutes.
- 2.45 The Democratic Services Officer present will call out Councillors' names who will in response indicate immediately if they are voting for or against the matter or are abstaining from voting.
- 2.46 In the event of an equality of votes on a recorded vote, the Chair will have a casting vote which will be recorded.

Right to Require Individual Vote to be Recorded

2.47 Where immediately after a vote is taken, a Councillor requests it, their vote will be recorded in the minutes to show whether they voted for or against a decision or abstained from voting.

**Rules of Debate**

2.48 Committees are intended to be more informal and discursive than Full Council meetings. However, the Chair shall have conduct of the debate with a view to ensuring All Councillors are able to speak on matters relevant to the item under discussion. It is expected that Councillors and others attending adhere to the NOLAN principles and maintain an atmosphere of courtesy and respect.

2.49 All Councillors will stop speaking if requested to do so by the Chair.

2.50 All statements and questions must be addressed through the Chair.

2.51 Speeches and / or questions are not time limited and, if invited by the Chair, a member of the Committee may speak more than once on an item but Committee members should aim to speak for no longer than three minutes.

2.52 The Chair may limit the length or number of speeches or questions to ensure the effective conduct of the meeting.

2.53 Residents questions will be permitted in accordance with Council Procedure Rule X

2.54 Public speaking at meetings of the Planning Committee and Hearing Sub-committees of the Regulatory Committees are subject to the particular rules applicable to such meetings as set out below under section 3 [and 5 respectively..

**Committee Business**

2.55 Items of business on the agenda will be presented to the Committee by Officers who may also answer any questions from Councillors.

2.56 The Committee may move and agree by consensus or by vote amendments to the recommendations as they see fit , following legal or other advice if required.

**Point of Order**

2.57 Any Councillor may make a point of order to the Chair alleging that there has been a breach of these Rules or any other statutory provision or applicable provision of this Constitution.

2.58 A Councillor making a point of order must state to the Chair that:

2.58.1 They wish to make a point of order; and

2.58.2 Specifying the Rule or statutory provision or provision of this Constitution which they considers to have been breached; and

2.58.3 The way in which they consider it has been breached.

2.59 The Chair shall consider whether a valid point of order has been raised and:

- 2.59.1 If so, take any necessary action; or,
- 2.59.2 If not, will continue with the business of the meeting; and,  
the Chair's ruling is final.

**Point of Personal Explanation**

- 2.60 A Councillor may request to speak to make a personal explanation, where the Chair agrees that the Councillor:
  - 2.60.1 Has been named by another Councillor during the debate and;
  - 2.60.2 Has been named in a manner which reflects adversely upon the reputation of the named Councillor.
- 2.61 A Councillor who wishes to make a personal explanation must make the request at the end of the current Councillor's speech to the Chair who may either agree or refuse the request. The Chair's decision is final.
- 2.62 In making a personal explanation, the Councillor must only address the comment in respect of the Councillor's reputation.

**Press and Public: Access and Exclusion**

- 2.63 Members of the press and public are permitted to attend all Committee meetings in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.
- 2.64 Members of the press and public may only be excluded from a Committee meeting in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.

**Recording and Filming**

- 2.65 Any person, including Councillors, may record or film Council proceedings when the meeting is held in public subject to the following:
  - 2.65.1 The person has notified Democratic Services of their intention to film or record the meeting prior to the commencement of the meeting;
  - 2.65.2 Recording or filming must not disrupt the business and conduct of the meeting;
  - 2.65.3 In the case of filming, the person filming must remain in the allocated area for filming or a place otherwise agreed by Democratic Services;
  - 2.65.4 Refrain from recording or filming any member of the public, except where part of the formal proceedings; and
  - 2.65.5 During a private session of the meeting must not leave any form of recording device in the meeting room, and Councillors remaining in the meeting must not record or film any private session of the proceedings.
- 2.66 Permission to record or film Council meetings does not extend to filming or recording of any matter outside of the formal proceedings or before or after the meeting.



2.67 Councillors must ensure that they remain able to fully participate in the meeting whilst filming or recording the meeting.

**Councillor Misconduct During Meetings**

2.68 If during the course of a Committee meeting a Councillor fails to comply:

2.68.1 With the NOLAN principles, these Rules or any other applicable rules or,

2.68.2 An instruction of the Chair; or,

2.68.3 A decision of the Committee;

or when speaking uses offensive, intimidatory or abusive language towards any Councillor, Officer or other person, the Chair may instruct the Councillor to be seated and not to speak.

2.69 If the Councillor continues to misbehave or otherwise refuses to comply with the Chair's instructions, the Chair may:

2.69.1 Move without debate that the Councillor be suspended from and must leave the meeting, and

2.69.2 If the motion is seconded, the Committee shall vote on the motion.

2.70 If the motion is carried but the offending Councillor refuses to leave the meeting, the Chair may take steps to remove the Councillor from the meeting.

**Disturbance by a Member of the Public**

2.71 Members of the public shall not interrupt or interfere with the effective conduct or business of a meeting.

2.72 Mobile phones and similar devices shall be placed on 'silent' and shall not be used during a meeting otherwise than as permitted elsewhere in these Rules.

**Removal of a Member of the Public**

2.73 If one or more members of the public interrupts or interferes the effective conduct of the business of a meeting the Chair may warn them, and if they interrupts again, the Chair may order their removal from the meeting.

**General Disturbance**

2.74 In case of a general disturbance in any part of the meeting room open to the public for the purpose of attending the meeting, the Chair may order that part of the chamber to be cleared.

**Notification of Cancellation of a Committee Meeting**

2.75 The Proper Officer, after consultation with the Chair may issue, owing to exceptional circumstances, a Public Notice of Cancellation of the Meeting.

2.76 The Notice must state reasons for the cancellation.

**Suspension and / or Amendment of the Committee Procedure Rules**

2.77 Subject to any statutory provisions, any or all of these Rules, except the those set out under Rule 2.78 below may be suspended by a majority of at least one half of the whole number of councillors who are present at the meeting and eligible to vote. Suspension will only be for the item or meeting specified in the motion. Motions to suspend must specify the Rule or Rules being suspended.

2.78 Rules that may not be suspended:

2.78.1 Requirements for Summons (Rules 2.10 to 2.12);

2.78.2 Quorum (Rules 2.242 to 2.24);

2.78.3 Duration of the Meeting (Rules 2.40 to 2.47);

2.78.4 Voting (Rules 2.48 to 2.57);

2.78.5 Access and Exclusion of the Press and Public (Rules 2.74 and 2.75);

2.78.6 Recording and Filming (Rules 2.76 to 2.78); and,

2.78.7 Rules as to conduct and removal (Rules 2.79 to 2.85).

### **3. PLANNING COMMITTEE PROCEDURE RULES**

#### **Purpose and Application**

3.1 These Planning Committee Procedure Rules (Rules) and the Access to Information Rules set out under Part 1 of this Constitution apply to all meetings of the Planning Committee (Hearing Sub-committee) in addition to the Committee Procedure Rules set out above under section 2, and the Access to Information Procedure Rules set out under Part 1 of this Constitution.

3.1 Where provision for a matter is not included in these Rules, the Committee Procedure Rules shall apply.

#### **3.2 Chair and Vice Chair**

- 3.3 The Chair of the Planning Committee or in the absence of the Chair, the Vice Chair of the Planning Committee shall preside over all meetings of the Planning Committee.
- 3.4 In the absence of the Chair and the Vice Chair for the whole or part of a Planning Committee meeting, as the first item of business the Committee shall appoint from those Councillors present a person to act as Chair of the Committee meeting for the duration of the Chair or Vice Chair's absence, and reference in these Rules to Chair will be read as referring to the person chairing the meeting.
- 3.5 The Chair is responsible for:
- 3.5.1 Calling items for consideration as they appear on the agenda and / or in such alternative order as they consider expedient;
  - 3.5.2 Calling and allowing persons to speak at the meeting in accordance with Rules XX to XX below (public speaking).
  - 3.5.3 Maintaining good order at the meeting and ensuring the effective and timely conduct of the meeting's business, for which purpose the Chair has the power to curtail any speaker (including Councillors and members of the Committee), and / or in the event of disorder, to suspend the hearing until good order is restored.
- 3.6 In all matters of procedure and the interpretation of all rules applicable to a Committee meeting the Chair's decision is final.
- 3.7 As appropriate , prior to a meeting the Chair and Vice Chair of the Planning Committee may meet with Officers to consider the business of the meeting and speaking arrangements for each item on the agenda.
- 3.8
- 3.9
- 3.10 **Officer Attendance**
- 3.11 A Planning Officer and legal advisor shall attend all Planning Committee meetings.
- 3.12 **Order of Business of the Hearing**
- 3.13 The order of business for a Planning Committee shall be:
- 3.14 In the absence of the Chair and Vice Chair of the Planning Committee, to elect the Chair of the meeting;
- (a) Apologies;
  - (b) Minutes;
  - (c) Substitutes;
  - (d) Declarations of interest;
  - (e) Consideration of planning applications in the order they appear on the agenda and / or in such alternative order as is considered expedient;

- (f) To deal with any other business specified in the agenda

**3.15 Consideration of Planning Applications**

3.16 Planning applications will be considered in the order they appear on the agenda as follows:

- (a) The Chair will announce the agenda item number;
- (b) The Planning Officer will introduce the planning application with any relevant updates including those which may be contained within a supplementary updates agenda .
- (c) The Chair will call on public speakers in accordance with Rules XXX below.
- (d) The Chair will ask members of the Committee if they require any clarification on points raised by any public speaker;
- (e) The Chair will ask members of the Committee if they have any technical questions for the Planning Officer and / or the legal advisor and/or any other technical staff present;
- (f) The Committee will then discuss / debate the planning application, during which members of the Committee may, through the Chair, seek further clarification from the Planning Officer and / or the legal advisor / other technical advisors present regarding the application, or, on points raised by public speakers.

3.17 Except where the Committee has determined that the decision on application is to be deferred, the Committee will then determine the application on a vote.

**3.18 Public Speaking**

3.19 With the consent of the Planning Committee Chair Councillors of Southend-on-Sea City Council may speak at meetings of the Planning Committee.

3.20 All other persons who wish to speak at a hearing of the Committee must have registered in advance to do so.

3.21 The circulation of documents (including photographs) or presentation of material at meetings other than submitted as part of the planning application is not permitted.

3.22 The following will be invited to have an opportunity to speak at the meeting a planning application is due to be considered by the Planning Committee:

- (a) Members of the public who have previously made written representations either objecting to or in support of that planning application in accordance with the Public Speaking Rules;
- (b) Parish Councils who have previously made written representations objecting to or in support of the application;
- (c) The applicant or agent (right of reply only).

3.23

3.24 The order of speaking and the time limit of speeches shall be determined in accordance with the Speaking Rules [link to Planning Committee Speaking Rules]

**3.25 Voting**

3.26 A member of the Committee must be present throughout the entire presentation and debate on a planning application in order to vote on it.

3.27 Each member of the Committee shall have one vote.

3.28 Where the number of votes for and against an application is equal, the Chair shall have a casting vote.

3.29 A planning application shall be decided by a simple majority of those members of the Committee physically present in the room and entitled to vote on the application.

3.30 Subject to Rule 3.27 to 3.30 below, voting shall be for:

- (a) The recommendation on the planning application as it appears in the written report;; or,
- (b) The recommendation on the planning application as amended at hearing by the Planning Officer; or,
- (c) An alternative recommendation on the planning application, as proposed by a member of the Committee during the meeting which must be seconded by at least one other member of that Committee.

3.31 Where there is more than one amendment proposed by a member of the Committee at the meeting, each proposed amendment will be voted on in order of the proposed amendments, provided that, for each proposed amendment which differs from the recommendation of the Planning Officer at Rule 3.27 (a) or Rule 3.27 (b), the Committee shall establish clear reasons for each proposed amendment.

3.32 If necessary and in consideration of the impact of deferring the determination of the application, the Chair may defer a decision on the planning application to establish and consider the reasons for each proposed amendment.

3.33 The Chair shall invite the Planning Officer and legal advisor to advise on the clarity and validity of the reasons established for each proposed amendment, and If necessary and in consideration of the impact of deferring the determination of the application, the Chair may defer a decision on the planning application to test the reasons and consider them at a further hearing of the Committee prior to determining the application .

3.34 Where there is any ambiguity as to the way in which members of the Committee are voting on any matter, the Chair shall require each member to confirm their vote on each matter before the decision is recorded.

3.35 Any member of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.

3.36 Immediately after a vote is taken and any member of the Committee requests it, their vote will be recorded in the minutes.

#### **4. PROBITY IN PLANNING: GUIDANCE TO MEMBERS AND OFFICERS**

4.1 [Space Holder]

(Probity in Planning: Guidance to Members and Officers for potential insertion here on updating and finalisation – currently a separate document – suggest link to the document rather than its inclusion in the Constitution).

#### **5. REGULATORY SUB-COMMITTEE HEARING PROCEDURE RULES**

5.1 [Space Holder]

(Regulatory Hearing Sub-committee Procedure Rules for potential insertion here, however a link to the document may be preferred) )

#### **6. PLANNING COMMITTEE AND TERMS OF REFERENCE**

##### **Purpose**

- 6.1 The Planning Committee is appointed by the Council under the Local Government Act 1972 for the purpose of discharging those functions of the Council relating to town and country planning, and development control specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, insofar as such functions are not the responsibility of any other local authority.
- 6.2 The Planning Committee shall have regard to the Planning Committee Procedure Rules set out above under section 2 and the Probity in Planning: Guidance to Members and Officers set out above under section 4.
- 6.3 The membership, chair and quorum requirements for the Planning Committee are as set out below in the table below.

**Membership, Chair and Quorum**

<b>Number of Members</b>	17
<b>Substitute Members Permitted</b>	Yes if undertaken the required training
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Group Leaders
<b>Restrictions on Membership</b>	[The Mayor and Cabinet Members may not be members of the Planning Committee] Members and substitutes must complete training in the principles of determining planning applications: <ul style="list-style-type: none"> <li>• Prior to appointment;</li> <li>• After any period of absence; and,</li> <li>• As required by the Council</li> </ul>
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	¼ of membership subject to a minimum of three members
<b>Number of Ordinary Meetings Per Council Year</b>	[ ]

**Terms of Reference**

- 6.4 The discharge of the non-executive functions and responsibilities of the Council relating to town and country planning, and development control specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000,

where those functions are not reserved to full Council as a matter of law or under this Constitution, including without limitation as regards functions under the following Acts and associated Regulations and Orders:

- 6.4.1 Town and Country Planning Act 1990;
  - 6.4.2 Planning (Listed Buildings and Conservation Area) Act 1990;
  - 6.4.3 Planning (Hazardous Substances) Act 1990;
  - 6.4.4 Planning and Compulsory Purchase Act 2004
- 6.5 Functions relating to the preservation of trees and hedgerows.
- 6.6 The exercise of ancillary powers in respect of those functions referred to above in relation to highways to the extent that they concern planning matters.
- 6.7 Responsibility for:
- 6.7.1 Wider strategic development;
  - 6.7.2 Sites which have a significant impact beyond the Council's area;
  - 6.7.3 Sites fundamental or contrary to the Council's Local Plan, or other national or government approved planning policies, including without limitation as regards:
    - (a) Major infrastructure;
    - (b) Large scale major development comprising:
      - Housing (approximately 400 dwellings or more);
      - Employment (approximately 10,000 square metres or 2 hectares or more);
      - Retail (approximately 10,000 square metres or 2 hectares or more).
- of
- 6.8 The consideration and determination of the decision the Committee would have made on a planning application subject of the non-determination appeal process
- 6.9 The consideration and determination of planning applications submitted by:
- A Councillor, their spouse or partner;
  - An Officer, their spouse or partner.;
- 6.10 The consideration and determination of a planning application where, in the opinion of the Director of Planning and Economy, the application raises issue of planning importance or should otherwise be considered and determined by the Planning Committee. .
- 6.11 Undertaking site visits as appropriate.



- 6.12 In the discharge of the Planning Committee's above functions and without limitation:
- (a) Imposing any condition, limitation or restriction, or determining any other terms, on an approval, granted in the exercise of its functions;
  - (b)
  - (c) Amending, modifying or varying any condition to which approval is subject;
  - (d)

**Delegations to Officers**

- 6.13 The functions of the Planning Committee which have been delegated to Officers is set in the Scheme of Delegation to Officers under Part 7 of this Constitution.

**7. REGULATORY COMMITTEE AND TERMS OF REFERENCE**

**Purpose**

- 7.1 The Regulatory Committee is established by the Council under the Licensing Act 2003 and the Local Government Act 1972 for the purpose of discharging respectively those functions of the Council relating to licensing under the Licensing Act 2003 and the Gambling Act 2005, those other of the Council's regulatory and licensing functions specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, insofar as such functions are not the responsibility of any other local authority.
- 7.2 The Regulatory Committee may appoint a sub-committee drawn from its members to discharge any of its functions.
- 7.3 A sub-committee of the Regulatory Committee may exercise all the powers of the Regulatory Committee.
- 7.4 The Regulatory Committee has appointed the Regulatory Sub-committee (Hearing Sub-committee) ['A', 'B' and 'C'] to consider and determine applications delegated to them by the Regulatory Committee.
- 7.5 [The Committee Procedure Rules set out above under section 2 shall apply to the Regulatory Committee, [and the Hearing Sub-committees shall conduct hearings in

accordance with Regulatory Committee Hearing Sub-committee Procedure Rules set out above below under section 5][which take precedence over the Committee Procedure Rules where there is any conflict or contradiction between them].

7.6 The membership, chair and quorum requirements for the Regulatory Committee are as set out below in the table immediately below. The membership, chair, and quorum requirements for a sub-committee of the Regulatory Committee and the Hearing Sub-committees are set out in the table at paragraph 7.19xx below.

**Membership, Chair and Quorum**

<b>Number of Members</b>	15
<b>Substitute Members Permitted</b>	Yes if undertaken the required training
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Group Leaders
<b>Restrictions on Membership</b>	[The Mayor and Cabinet members may not be members of the Licensing Committee]  [ ] Members and substitutes must complete training in the principles of determining licensing applications: <ul style="list-style-type: none"> <li>• Prior to appointment;</li> <li>• After any period of absence; and,</li> <li>• At least once in each municipal year</li> </ul>
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	¼ of total membership subject to a minimum of 3 members
<b>Number of Ordinary Meetings Per Council Year</b>	[At least two per municipal year]
<b>Standing Sub-committee</b>	Hearing Sub-committee

**Regulatory Committee Terms of Reference**

Licensing Act 2003

7.7 To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853) as

amended or updated, where those not reserved to full Council as a matter of law or under this Constitution, including without limitation:

- (a) The determination of applications for a premises licence where representations have been made;
- (b) The determination of applications for a provisional statement where representations have been made;
- (c) The determination of applications for the variation of premises licence where representations have been made;
- (d) The determination of applications to vary a designated premises supervisor following police objection;
- (e) The determination of applications for the transfer of a premises licence following objection;
- (f) The consideration of objections made to an interim authority notice;
- (g) The determination of interim steps pending a summary review;
- (h) The determination of applications for a club premises certificate where representations have been made;
- (i) The determination of application to vary a club premises certificate where representations have been made;
- (j) The decision to give counter notice following police objections to a temporary event notice;
- (k) The determination of applications for the grant of a personal licence following objection;
- (l) The revocation of licence where convictions come to light after grant etc;
- (m) The revocation or suspension of licence where convictions or immigration penalties become known; and,
- (n) The determination of interim steps pending summary off-sales review; and,
- (o) Any matter under the Licensing Act 2003 referred to the Licensing Committee for determination by an Officer.

7.8 For the avoidance of doubt, in relation to the grant or issue by the Regulatory Committee or a Hearing Sub-committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above at paragraph 7.7 includes responsibility for:

- (a) The imposition or amendment, modification or variation of any term, condition, limitation or restriction.

- (b) The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction.
- (c) The decision to revoke, vary or modify any approval, consent, licence, permission or registration.
- (d) Where permissible by law, the decision to impose a charge and the amount of any such charge.
- (e) Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.

7.9 In conjunction with Officers, to develop and approve for recommendation to full Council for adoption, the Council's Statement of Licensing Policy.

**Gambling Act 2005**

7.10 To exercise the Council's responsibilities and functions relating to gambling, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853) as amended or updated where those functions are not reserved to full Council as a matter of law or under this Constitution, including without limitation:

- (a) The determination of an application for a premises licence in respect of which representations have been made and not withdrawn;
- (b) The determination of an application for the variation of a premises licence in respect of which representations have been made and not withdrawn;
- (c) The determination of an application for the transfer following representations by the Commission,
- (d) The determination of an application for a provisional statement under in respect of which representations have been made and not withdrawn;
- (e) The review of a premises licence;
- (f) The determination of an application for a club gaming / club machine permit;
- (g) The cancellation of a club gaming / club machine permit;
- (h) The decision to give counter notice following objections to a temporary use notice; and
- (i) Any matter under the Gambling Act 2005 referred to the Regulatory Committee for determination by an Officer.

7.11 As a matter of law, the full Council shall resolve to:

- (a) Adopt the Gambling Act 2005 Statement of Principles (adoption by full Council) and,
- (b) Refuse to issue a casino premises licence.

7.12 For the avoidance of doubt, in relation to the grant or issue by the Regulatory Committee or a Hearing Sub-committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above at paragraph 7.10 includes responsibility for:

- (a) The imposition or amendment, modification or variation of any term, condition, limitation or restriction.
- (b) The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction.
- (c) The decision to revoke, vary or modify any approval, consent, licence, permission or registration.
- (d) Where permissible by law, the decision to impose a charge and the amount of any such charge.
- (e) Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.

7.13 In conjunction with Officers, to develop and approve for recommendation to full Council for adoption, the Council's Statement of Principles.

7.14 In conjunction with Officers, to consider and make recommendations to full to refuse issue casino premises licence.

#### Other Licensing

7.15 To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended or updated where those functions are not functions under the Licensing Act 2003 or the Gambling Act 2005, functions of any other Committee, or functions reserved to full Council as a matter of law or under this Constitution, including without limitation as regards:

- (a) Caravan sites;
- (b) Camping sites;
- (c) Hackney carriage and private hire operators, drivers and vehicles;
- (d) Sex shops, sex cinemas and sex entertainment venues;
- (e) Acupuncture; tattooing, ear-piercing and electrolysis;
- (f) Pleasure boats and pleasure vessels;

- (g) Markets and street trading, including permits under the Essex Act 1987;
- (h) House to house and street collections;
- (i) Night cafes and take-away food shops;
- (j) Food preparation premises;
- (k) Scrap yards;
- (l) Safety certificates for sports grounds and regulated stands at sports grounds;
- (m) Animals and birds, including selling animals as pets, providing or arranging provisions for the boarding for cats and dogs, hiring horses, breeding dogs, keeping or training animals for exhibition, zoos and dangerous wild animals, and premises related to animals including knackers' yards;
- (n) Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) 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;
- (o) Smoke free premises etc;
- (p) Film classification (age); and,
- (q) Any matter pertaining to licensing or regulation referred to the Regulatory Committee for determination by an Officer.

7.16 For the avoidance of doubt, in relation to the grant or issue by the Regulatory Committee / Hearing Sub-committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above at paragraph 7.15 includes responsibility for:

- (a) The imposition or amendment, modification or variation of any term, condition, limitation or restriction.
- (b) The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction.
- (c) The decision to revoke, vary or modify any approval, consent, licence, permission or registration.
- (d) Where permissible by law, the decision to impose a charge and the amount of any such charge.
- (e) Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.

7.17 In conjunction with Officers, to develop and adopt, or recommend to full Council for adoption, such licensing policies as are required by law or as are otherwise appropriate.

**Delegations to Officers**

7.18 Those functions of the Regulatory Committee which may be discharged by specified Officer are set in the Scheme of Delegation to Officers under Part 7 of this Constitution.

**Hearing Sub-committee**

7.19 The membership, chair and quorum requirements for a Regulatory Committee Hearing Sub-committee are as set out in the below table:

**Membership, Chair and Quorum**

<b>Number of Members</b>	[9] Members of Regulatory Committee
<b>Substitute Members Permitted</b>	Yes if undertaken the required training
<b>Political Proportionality Rules Apply</b>	No
<b>Appointment / Removal of Members</b>	Regulatory Committee
<b>Restrictions on Membership</b>	[The Mayor and Cabinet Members may not be a member of the Hearing Sub-committee][ ] Members and substitutes must complete training in the principles of determining licensing applications under the Licensing Act 2003 and the Gambling Act 2005, and as may otherwise be required: <ul style="list-style-type: none"> <li>• Prior to appointment;</li> <li>• After any period of absence; and,</li> <li>• At least once in each municipal year</li> </ul>
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	[3]
<b>Number of Ordinary Meetings Per Council Year</b>	As required

**Hearing Sub-committee Terms of Reference**

- 7.20 Hearing Sub-committees A and B shall consider and determine those applications and matters under the Licensing Act 2003 and Gambling Act 2005 delegated to it by the Regulatory Committee from time to time.
- 7.21 Hearing Sub-committee C shall consider and determine those applications and matters other than those under the Licensing Act 2003 and the Gambling Act 2005 to it by the Regulatory Committee from time to time.

## **8. STANDARDS COMMITTEE AND TERMS OF REFERENCE**

### **Purpose**

- 8.1 The Standards Committee is established by the Council under the Local Government Act 1972 to oversee, develop and review the Council's Code of Conduct for Councillor and the Council's Arrangements for Dealing with Complaints Against Councillors each set out under Part 6 of this Constitution.
- 8.2 In discharging its functions the Standards Committee shall consult with an Independent Person of the Council as required.
- 8.3 The Standards Committee may appoint a sub-committee drawn from its own members to discharge any of its functions.
- 8.4 The Standards Committee has appointed The Standards Committee Hearing Sub-committee (Standards Hearing Sub-committee) to consider and determine complaints against made against a Councillor or co-opted member under the Code of Conduct for Councillors, in accordance with the Arrangements for Dealing with Complaints Against Councillors.
- 8.5 The Standards Committee and any sub-committee it appoints shall have regard to the Committee Procedure Rules set out above under section 2 and all other applicable rules set out under this Constitution.
- 8.6 Hearings of the Standards Hearing Sub-committee shall be conducted in accordance with the Standards Hearing Sub-committee Procedure Rules set out under Part 6 of this Constitution [which take precedence over the Committee Procedure Rules where there is any conflict or contradiction between them].
- 8.7 The membership, chair and quorum requirements for Standards Committee are as set out below in the table immediately below. The membership, chair, and quorum requirements for a sub-committee of the Standards and General Purpose Committee and the Standards Hearing Sub-committee are set out in the table at paragraph 8.38 below.

### **Membership, Chair and Quorum**

<b>Number of Members</b>	9 (including up to non-voting 2 Independent
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	Persons)
<b>Substitute Members Permitted</b>	Yes
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Group Leaders
<b>Restrictions on Membership</b>	[The Mayor and Cabinet Members may not be a member of the Standards and General Purpose Committee]  [ ] •
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	¼ of total membership subject to a minimum of 3 members
<b>Number of Ordinary Meetings Per Council Year</b>	[At least two per municipal year]
<b>Standing Sub-committee</b>	Standards Hearing Sub-committee

**Terms of Reference**

8.8 The promotion of the highest standards of behaviour by Councillors and co-opted members of the Council in accordance with the ‘Nolan Principles’ on standards in public life, which are:

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership

8.9 Reviewing and developing for the adoption by full Council of the Council’s:

- (a) Code of Conduct for Councillors (Code);
- (b) Arrangements for Dealing with Complaints Against Councillors (Arrangements);

- 8.10 Advising and recommending to full Council amendments to the Code or the Arrangements;
- 8.11 Reporting to full Council on the implementation of the Code and the Arrangements.
- 8.12 Reporting to full Council on the number of complaints made under the Code each municipal year.
- 8.13 Reviewing training requirements and arrangements for Councillors and co-opted members on standards, the Code and the Arrangements.
- 8.14 Receiving reports on the registration and declaration of disclosable interests by Councillors and co-opted members of the Council.
- 8.15 Receiving reports on the registration of gifts and hospitality by Councillors and co-opted member of the Council.
- 8.16 Making recommendations to full Council on the appointment of Independent Persons of the Council.
- 8.17 Establishing a Standards Hearing Sub-committee to hear and determine complaints against Councillors made under the Code in accordance with the Arrangements where a hearing is required.
- 8.18 Supporting the Monitoring Officer in standards matters.
- 8.19 Considering any other matter referred to it by the Monitoring Officer.

**Hearing Sub-committee**

- 8.20 The membership, chair and quorum requirements of the Hearing Sub-committee are set out in the below table.

**Membership, Chair and Quorum**

<b>Number of Members</b>	[3] Members of the Standards Committee
<b>Substitute Members Permitted</b>	Yes
<b>Political Proportionality Rules Apply</b>	No
<b>Appointment / Removal of Members</b>	Standards Committee
<b>Restrictions on Membership</b>	The Mayor and Cabinet Members may not be a member of the Hearing Sub-committee [ ] •
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	[3]

<b>Number of Ordinary Meetings Per Council Year</b>	As required
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**Hearing Sub-committee Terms of Reference**

8.21 As required under the Arrangements, the Hearing Sub-committee shall consider and determine complaints submitted against Councillors and co-opted members under the Code.

**9. AUDIT AND GOVERNANCE COMMITTEE AND TERMS OF REFERENCE**

**Purpose**

- 9.1 The Audit and Governance Committee is established by the Council under the Local Government Act 1972 to provide independent assurance to the Council as regards the Council's governance, risk management framework and associated control environment, including as regards treasury management. environment. The Audit and Governance Committee provides independent review of the Council's financial and non-financial performance to the extent that it exposes the Council to risk and weakens its control environment, approves the Council's final accounts and also acts as an advisory committee to the Council and the Cabinet on audit and governance matters.
- 9.2 The Audit and Governance Committee may appoint a sub-committee drawn from its members to discharge any of its functions.
- 9.3 A sub-committee of the Audit and Governance Committee may exercise all the powers of the Audit and Governance Committee.
- 9.4 The Audit and Governance Committee and any sub-committee it appoints shall have regard to the Committee Procedure Rules set out above under section 2 and all other applicable rules set out under this Constitution.
- 9.5 The membership, chair and quorum requirements for the Audit and Governance Committee are as set out below in the table below.

**Membership, Chair and Quorum**

<b>Number of Members</b>	[ 9 ]
<b>Substitute Members Permitted</b>	Yes
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Full Council
<b>Restrictions on Membership</b>	[The Mayor and Cabinet Members may not be members of the Audit and Governance Committee]

	<p>[ ]</p> <p>Members and substitutes must complete training on the Council's governance, risk management and financial reporting arrangements:</p> <p>Prior to appointment;</p> <p>After any period of absence; and,</p> <p>At least once in each municipal year</p>
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	¼ of total membership subject to a minimum of 3 members
<b>Number of Ordinary Meetings Per Council Year</b>	[At least two per municipal year]

**Terms of Reference**

Audit

- 9.6 To consider the Chief Internal Auditor's annual plan and annual report (including a summary of internal audit activity) and the level of assurance it can give over the Council's governance arrangements.
- 9.7 To consider summaries of specific internal audit reports and the response of the Chief Executive to such reports.
- 9.8 To consider reports dealing with the management and performance of internal audit service providers.
- 9.9 To consider the external auditor's annual letter, relevant reports and the report to those in charge of governance.
- 9.10 To consider specific reports as agreed with the Chief Finance Officer, Chief Internal Auditor, and Monitoring Officer, Chief Executive or external auditor.
- 9.11 To comment on the scope and depth of external audit work and ensure it provides value for money.
- 9.12 To commission work from internal and external audit in accordance with guidelines as required.
- 9.13 Such other matters as required by law or guidance to be the proper remit of the Audit and Governance Committee.

Governance

- 9.14 To maintain an overview of all aspects of this Constitution not otherwise reserved to the Standards and General Purposes Committee, including but not limited to decision making, the Contract Procedure Rules, and the Financial Procedure Rules.
- 9.15 To recommend and changes to this Constitution not otherwise reserved to the Standards and General Purposes Committee, including but not limited to decision making, the Contract Procedure Rules, and the Financial Procedure Rules, to full Council for adoption.
- 9.16 To review any issue referred to it within the terms of reference of the Audit and Governance Committee by the Chief Executive, Monitoring Officer, Chief Finance Officer or any body of the Council.
- 9.17 To consider and monitor the Council's risk registers and refer matters for consideration to Cabinet and Council.
- 9.18 To monitor the effective development and operation of risk management and corporate governance arrangements within the Council, and approve the annual risk management strategy.
- 9.19 To approve and monitor the Council's 'whistle-blowing', anti-fraud and anti-corruption policies.
- 9.20 To review and make recommendations on the Council's Annual Governance Statement.
- 9.21 To consider the Council's corporate governance arrangements and make recommendations to ensure compliance best practice.
- 9.22 To monitor the Council's compliance with its own and other published standards and controls.
- 9.23 To consider reports dealing with risk management across the Council, and those reports which identify key risks the Council faces, seeking assurance to the satisfaction of the Audit and Governance Committee, of appropriate management action.
- 9.24 To receive each municipal year statistical reports and details of complaints received and investigated under the Council's corporate complaints procedure.

#### Financial Reporting

- 9.25 To review the Council's annual statement of accounts and specifically consider whether appropriate accounting policies have been followed, and whether there are any concerns arising from the financial statements or the audit, which should be brought to the attention of the Council.
- 9.26 To consider reports of the external auditor to those in charge of governance on issues arising from the audit of the accounts.

9.27

**10. GENERAL PURPOSE COMMITTEE**

**Purpose**

- 10.1 The General Purpose Committee is established by the Council under the Local Government Act 1972 to discharge those functions set below under the terms of reference, and such other of the Council’s functions which have not been reserved to the full Council as a matter of law, or in accordance with this Constitution, which do not fall within the terms of reference of any other Committee of the Council.
- 10.2 The General Purpose Committee may appoint a sub-committee drawn from its members to discharge any of its functions.
- 10.3 A sub-committee of the General Purpose Committee may exercise all the powers of the General Purpose Committee.
- 10.4 The General Purpose Committee and any sub-committee it appoints shall have regard to the Committee Procedure Rules set out above under section 2 and all other applicable rules set out under this Constitution.
- 10.5 The membership, chair and quorum requirements for the General Purpose Committee are as set out below in the table below.

**Membership, Chair and Quorum**

<b>Number of Members</b>	[ 9 ]
<b>Substitute Members Permitted</b>	No (members act in a qusai-trustee capacity and as substitutes are not permitted)
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Group leaders
<b>Restrictions on Membership</b>	The Mayor [and Cabinet Members] may not be members of the Pension Fund Committee Members and substitutes must complete

	such training as required: <ul style="list-style-type: none"> <li>• Prior to appointment;</li> <li>• After any period of absence; and,</li> <li>• At least once in each municipal year</li> </ul>
<b>Restrictions on Chair and Vice Chair</b>	
<b>Quorum for Meetings</b>	¼ of total membership subject to a minimum of 3 members
<b>Number of Ordinary Meetings Per Council Year</b>	[Four per municipal year] Additional meetings may be scheduled as required

**Terms of Reference**General Functions

10.6 Such of the Council's functions which are not reserved to the full Council under the law or in accordance with this Constitution which do not fall within the terms of reference of any other Committee of the Council.

Common Land etc and Byelaws

10.7 Functions relating to common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:

- (a) An exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981; or,
- (b) An order under section 147 of the Inclosure Act 1845 (power to register variation of rights of common).

10.8 Recommending to full Council the making, amendment, revocation, re-enactment or enforcement of a byelaw.

Rights of Way

10.9 To exercise power to require information as to interests in land.

10.10 To exercise power to create footpaths and bridleways.

10.11 To exercise power to stop up footpaths and bridleways.

10.12 To exercise power to divert footpaths and bridleways.

10.13 To discharge duty to assert and protect the rights of the public to use, and enjoyment of, highways.

10.14 To discharge duty to keep a definitive map and statement under review.

10.15 To discharge duty to reclassify roads used as public paths.

10.16 To exercise power to authorise creation of stiles etc. on footpaths or bridleways.

10.17 To exercise powers relating to the removal of things so deposited on highways as to be a nuisance.

**Elections**

10.18 All functions relating to elections, electoral arrangements, the name of the Council and the areas within the administrative area of the Council, and any relevant issues referred by the Head of Paid Service (Chief Executive), Monitoring Officer, Chief Finance Officer and Chief Internal Auditor.

**Local Government and Social Care Ombudsman**

10.19 Receiving on behalf of the Council, reports issued by the Local Government and Social Care Ombudsman on investigations that the Council's actions have amounted to maladministration causing injustice.

**Awards**

10.20 Considering and determining nominations of honours and awards introduced by the Council from time to time.

**Protocol on Member / Officer Relations**

10.21 In conjunction with the Monitoring Officer, reviewing the provisions, implementation and effectiveness of the Protocol on Member / Officer Relations, and recommending changes to full Council for adoption.



## **11. HEALTH AND WELLBEING BOARD TERMS OF REFERENCE**

### **Purpose**

11.1 The Health and Wellbeing Board is a Committee of the Council established Local Government Act 1972 as an ordinary committee but amended pursuant to section 194 of the Health and Care Act 2012 (as amended), and the Local Authority (Public Health, Health and Wellbeing Boards and Scrutiny) Regulations 2013.

11.2 The purpose of the Health and Wellbeing Board is lead the improvement of health and wellbeing of residents of the Southend-on-Sea City Council area, with a specific focus on tackling health inequalities.

### **Composition**

11.3 The Health and Care Act 2024 (as amended) specifies certain requirements as to the composition of the Health and Wellbeing Board.

11.4 The voting members of the Board comprise:

- Six Councillors nominated by the Mayor including the Cabinet Member for public health
- The Chief Executive of the Council;
- The Executive Director (Children and Public Health;)
- The Director of Public Health;
- The Local Area Team Director (NHS England, Essex Local Area Team)
- A Representative of Healthwatch Southend;
- A Representative(s) [of each] Integrated Care Partnership operating within the Council's area.

11.5 The non-voting co-opted members of the Board comprise:

- Chief Executive, Essex Partnership University Trust (EPUT);
- Chief Executive, Southend University Hospital Foundation Trust (SUHFT);

- Chief Executive, Southend Association of Voluntary Services (SAVS);
- Director of Culture, Tourism and Property;
- Chief Executive/Chief Officer – Pre-school Learning Alliance;
- STP Programme Director;
- Independent Chair (Safeguarding Boards – LSCB and SAB).

11.6 The Board may, in addition, appoint such other persons or representatives as it deems appropriate.

11.7 The Chair of the Council's People Scrutiny Committee may attend meetings of the Board as an observer, and may ask questions and make comments, but is not entitled to vote.

#### Substitutes

11.8 Substitutes are permitted in accordance with the Council's Committee Procedure Rules.

11.9 Co-opted member substitutes must be of a sufficient level of seniority of their organisation.

#### Delegations to Sub-committees and Officers

11.10 The Board may arrange for the discharge of any of its functions by a Sub-Committee, or an Officer of the Council.

11.11 Unless the Board otherwise directs, a Sub-committee may arrange for the discharge of any of those functions by an Officer of the Council.

11.12 The Board may appoint one or more Sub-committees to advise the Board with respect to the discharge of functions by the Board.

#### Political Proportionality

11.13 Political proportionality rules do not apply to the Health and Wellbeing Board as it is a statutory committee with specified membership.

#### Chair

11.14 The Chair shall be an elected member appointed by the Council.

#### Quorum

11.15 Quorum for a meeting of the Health and Wellbeing Board shall be four including:

11.15.1 Not less than two Councillors of Southend-on-Sea City Council; and,

11.15.2 Not less than one representative from the Integrated Care Partnership.

#### Rules

11.16 Except as regards the above paragraphs 11.1 – 11.11, the Council's Committee Procedure Rules set out above under section 2 shall apply to the Health and Wellbeing Board.

**Terms of Reference**

- 11.17 To provide strategic leadership, strengthen the influence of local authorities and elected representatives in shaping healthcare commissioning.
- 11.18 To oversee the development and refresh of the Joint Strategic Needs Assessment (JSNA) so that future commissioning / policy decisions and priorities are evidence based.
- 11.19 To determine the health improvement priorities in Southend.
- 11.20 To promote integration, collaboration and partnership working.
- 11.21 To oversee development of a Joint Health and Wellbeing Strategy (JHWS), which sets out improvement for health and wellbeing outcomes, including reduction in health inequalities that provides a framework for commissioning plans related to health and wellbeing.
- 11.22 To promote and encourage integration and partnership working including joint commissioning, pooled budgets and joint delivery across the NHS, social care, public health and other service providers.
- 11.23 To initiate and support stakeholder and community engagement and consultation work in relation to health and wellbeing issues.
- 11.24 To appoint task and finish groups / sub-committees for specific pieces of work that support or inform health and wellbeing across Southend.
- 11.25 To sign-off key commissioning plans, strategy and policy related to health and wellbeing and health inequalities.
- 11.26 To oversee the development of the pharmaceutical needs assessment.
- 11.27 To performance manage the achievement of and progress against key outcomes identified within the JHWS.
- 11.28 To provide leadership on any other emerging health and wellbeing related issues that may have a significant impact on the delivery of the JHWS.
- 11.29 To oversee the strategic governance for Fulfilling Lives. A Better Start Programme.
- 11.30 To carry out all other statutory functions of the Health and Wellbeing Board

**12. SENIOR APPOINTMENTS AND PAY COMMITTEE AND TERMS OF REFERENCE**

**Purpose**

- 12.1 The Senior Appointments and Pay Committee (the Committee) is established by the Council under the Local Government Act 1972 to discharge the Council's functions in relation to the Council's statutory and senior Officers as set out in the table below at paragraph 12.6, and make recommendations to full Council as required.
- 12.2 The Senior Appointments and Pay Committee may appoint a sub-committee drawn from its members to discharge any of its functions.
- 12.3 The Senior Appointments and Pay Committee and any sub-committee it appoints shall have regard to the Committee Procedure Rules set out above under section 2, the Staff Employment Procedure Rules set out under Part 7 of this Constitution, all other applicable rules set out under this Constitution, and all applicable law.
- 12.4 The membership, chair and quorum requirements for the Senior Appointments and Pay Committee are as set out below in the table below.

**Membership, Chair and Quorum**

<b>Number of Members</b>	7
<b>Substitute Members Permitted</b>	Yes
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Group Leaders or individual Councillors
<b>Restrictions on Membership</b>	At least one Cabinet Member must be a member [ ]
<b>Restrictions on Chair and Vice Chair</b>	[ ]
<b>Quorum for Meetings</b>	¼ of total membership subject to a minimum of 3 members
<b>Number of Ordinary Meetings Per Council Year</b>	[At least two per municipal year]

<b>Standing Sub-committee</b>	No
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**Appointment, Dismissal, and Disciplinary Action**

12.5 The function of the appointment, taking disciplinary action against, and dismissal of, an Officer of the Council must be discharged by the Chief Executive (as the Council's Head of Paid Service) or by their nominated Officers.

12.6 However, this shall not apply to the appointment, disciplinary action or dismissal in relation to the Statutory Officers detailed in the below table. The appointment or dismissal or disciplinary action in respect of the Statutory Officers are functions of the Senior Appointments and Pay Committee.

<b>Statutory Officer</b>	<b>Post</b>
<p><b>Head of Paid Service</b> (s4 Local Government and Housing Act 1989)</p>	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
<p><b>Statutory Chief Officer</b> (s2 (6) Local Government and Housing Act 1989)</p>	<ul style="list-style-type: none"> <li>• Director of Adult Social Services</li> <li>• Director of Children's Services</li> <li>• Director of Public Health</li> <li>• Chief Finance Officer (s151 Officer)</li> </ul>
<p><b>Non-statutory Chief Officer</b> (s2 (7) Local Government and Housing Act 1989)</p>	<ul style="list-style-type: none"> <li>• Monitoring Officer</li> <li>• Executive Directors</li> <li>• All other non-clerical posts reporting to the Chief Executive and those for whom Chief Executive is directly responsible</li> </ul>
<p><b>Deputy Chief Officer</b> (s2 (8) Local Government and Housing Act 1989)</p>	<ul style="list-style-type: none"> <li>• All non-clerical posts reporting directly or is directly accountable to a Statutory or Non-Statutory Chief Officer</li> </ul>

Officers appointed under s9 Local Government and Housing Act 1989)	• Political assistants
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## **Recruitment**

12.7 Where the Council proposes to appoint the Head of Paid Service or senior Officer listed above and it is not proposed that the appointment be made exclusively from among their existing Officers, the committee will:

12.7.1 Draw up a statement specifying:

- (a) The duties of the Head of Paid Service or Senior Officer concerned; and
- (b) Any qualifications or qualities to be sought in the person to be appointed;

12.7.2 Make arrangements for:

- (a) The post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (b) A copy of the statement to be sent to any person on request.

## **Appointments**

12.8 To undertake the selection process and interviews candidates shortlisted for any of the above posts (bar Political Assistants). Offers of appointments will also be made (subject to the Executive Objections procedure (see below)) for all of the above posts save the Chief Executive which must be recommended to Full Council for approval.

## **Disciplinary Action, Grievance or Dismissal**

12.9 To determine all disciplinary action relating to any of the posts listed above (bar Political Assistants).

12.10 To dismiss any of the posts listed above (subject to the Executive Objections procedure (see below)) save the Chief Executive, S151 officer and Monitoring Officer which must be recommended to Full Council for approval

12.11 To determine grievance appeals submitted by any of the above listed officers.

## **Suspension Head of Paid Service and Chief Officers**

12.12 To suspend or review an earlier suspension decision taken by the Chief Executive or Monitoring Officer whilst an investigation takes place into alleged misconduct.

## **Appointment of an Independent Panel**

12.13 To appoint an Independent Panel in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended where the dismissal of the Head of paid Service, s151 and Monitoring Officer is to be recommended to Full Council.

**The Executive Objective Procedure**

12.14 Where the Committee makes a decision to appoint or dismiss a Statutory or Non Statutory Chief Officer or Deputy Chief Officer post, the Executive Objective Procedure set out at paragraphs 12.15 to 14 must be followed before an offer of employment can be made or notice of dismissal given.

12.15 The Proper Officer will inform the Leader and all Cabinet members about the proposed appointment or dismissal in writing, including:

- (a) The name of the person who it is proposed to appoint or dismiss;
- (b) Any other particulars relevant to the appointment or dismissal which have been notified to the Proper Officer;
- (c) That objections to the appointment or dismissal must be received by the Leader within **two clear days** for notification to the Proper Officer.

12.16 The appointment or dismissal can only be made if:

- (a) The Leader has, within the period of **two clear days**, notified the Proper Officer that neither he nor any Cabinet member has any objection to the appointment or dismissal; or,
- (b) The Proper Officer has notified the Senior Appointments and Pay Committee that no objection was received by them from the Leader within that time period; or
- (c) An objection is received within that time period and is considered by the Senior Appointments and Pay Committee not to be material or well founded.

12.17 If the Senior Appointments and Pay Committee, with the advice of the Chief Executive or Monitoring Officer, considers an objection to be material or well founded, they may reconsider their decision to appoint or dismiss.

**Independent Panel**

Terms of Reference

12.18 To offer the Council advice, views or recommendations on any proposal for the dismissal of a Statutory Chief Officer. In doing so, the Independent Panel will consider:

- (a) The recommendation of the Committee and the reasons in support of that recommendation;
- (b) The report of the independent investigator; and
- (c) Any oral and/or written representations from the Officer.

12.19 A minimum of two Independent Persons must be invited to be appointed to the Panel in the following priority order:

- (a) The relevant Independent Person who has been appointed by the Council and who is a local government elector;

- (b) Any other relevant Independent Person who has been appointed by the Council; and
- (c) A relevant Independent Person who has been appointed by another local authority or local authorities.

12.20 The Committee must appoint the Independent Panel at least twenty working days before the Council meeting at which any vote is taken in whether or not to approve the dismissal of the Officer.

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**Part 4 THE EXECUTIVE (CABINET)**

**Section**

- 1 Executive Arrangements
- 2 The Leader and Cabinet Model of Executive
- 3 The Role of Cabinet
- 4 The Cabinet
- 5 Cabinet Procedure Rules

Joint Arrangements

- 6 Joint Authorities
- 7 Joint Committees

DRAFT

**1. EXECUTIVE ARRANGEMENTS**

1.1 The following Parts of this Constitution comprise the Council's executive arrangements:

- (a) Part 1, Section 3      Access to Information Procedure Rules;
- (b) This Part 4          The Executive (Cabinet);
- (c) Part 5                Overview and Scrutiny Arrangements.

DRAFT

**2. THE LEADER AND CABINET MODEL OF EXECUTIVE**

- 2.1 The Council has adopted an 'executive' governance arrangement with a leader and cabinet model of executive, sometime referred to as the "Strong Leader" model. The term "Executive" refers to the Leader (of the Council) and the Cabinet collectively. The term "Cabinet" is also used to refer to the Executive.
- 2.2 The Leader is elected by full Council at the Annual Meeting following the election and is elected for a 4 year term. The Leader appoints up to nine other Councillors, called Cabinet Members, who form the Cabinet.
- 2.3 All functions other than those which are reserved to full Council, or delegated to a Council Committee, as a matter of law or under this Constitution, are called 'executive functions' and are the responsibility of the Leader and Cabinet.
- 2.4 Specific areas of executive responsibility are called Portfolios and may be assigned by the Leader to a Cabinet Member. A Cabinet Member with responsibility for a Portfolio is also known as a Portfolio Holder.

### 3. THE ROLE OF CABINET

#### Functions

- 3.1 The Local Government Act 2000 provides that the functions of a local authority are the responsibility of its Cabinet (referred to in the Act as the Executive) except for those which the law requires to be performed by the Council; provided that the decisions taken in respect of such a function is within the Council's approved Budget and Policy Framework.
- 3.2 The Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 (the Regulations) lists the different functions which can be categorised as:
- (a) Schedule 1: Functions which must not be the responsibility of the Cabinet – these are known as “Council Functions”.
  - (b) Schedule 2: Functions which may be the responsibility of the Cabinet or of the Council - these are known as “Local Choice” functions:
  - (c) Schedule 3: Functions which may not be the sole responsibility of the Cabinet; and,
  - (d) Schedule 4: Circumstances in which functions which would normally be the responsibility of the Cabinet, are not to be the responsibility of the Cabinet.
- 3.3 As such, the Council has the discretion to decide which of those functions which fall under Schedule 2 of the Regulations will be the responsibility of the Council and which will be the responsibility of the Cabinet.
- 3.4 Where a function is not specified in the Regulations it is considered to be an executive function.

#### Executive Functions

- 3.5 Except those Council functions listed at in Schedule 1 of the Regulations the Council [has decided that all other functions, including local choice functions, are to be executive functions]. Executive functions include particularly:
- (a) Making “Key Decisions” in respect of executive functions;
  - (b) Recommending the rate of Council Tax and related policies to full Council for approval (the Budget);
  - (c) Recommending policies to full Council for approval (the Policy Framework);
  - (d) Making decisions on local choice functions;
  - (e) Exercising the Council's shareholder function in respect of companies wholly owned by the Council, or in which the Council has an interest.
- 3.6 Responsibility for executive functions rests with the Leader who will decide which functions they will perform personally, and which will be delegated, if any, to:

- (a) The Cabinet as a whole;
- (b) A Cabinet Committee;
- (c) Individual Cabinet Members;
- (d) Officers;
- (e) Another local authority under 'joint arrangements' or any other body or person permitted by law.

3.7 A decision on any delegated executive function may be referred to the whole Cabinet when:

- (a) The Leader, Cabinet Committee, Cabinet Member or Officer believes that due to the contentious or 'political' nature of the matter it should be considered and decided by the whole Cabinet; or,
- (b) The Cabinet Member takes a different view of the proposal in question and feels unable to be associated with it;
- (c) The Cabinet Member or Officer believes that they are conflicted or may be accused of bias.
- (d) The decision covers two portfolio areas (known as cross-cutting).

3.8 Additionally, under the Localism Act 2011 a Cabinet member cannot deal with any matter in which they have a Disclosable Pecuniary Interest and must take no action other than referring the matter to the Monitoring Officer and Leader.

## **4. THE CABINET**

### **Composition**

- 4.1 The Cabinet will comprise the Leader together with such number of elected Councillors as s/he may appoint to the Cabinet subject to a minimum of two and a maximum of nine.
- 4.2 The Leader will also appoint a Cabinet Member as a Deputy Leader of the Council.
- 4.3 Only elected Councillors of the Council may be appointed to the Cabinet.
- 4.4 The Mayor and Deputy Mayor cannot be appointed to the Cabinet.
- 4.5 There shall be no co-opted members of the Cabinet and substitutes for Cabinet Members are not permitted.
- 4.6 The composition of the Cabinet is not subject to the political proportionality requirements set out in the Local Government and Housing Act 1989.

### **The Leader**

- 4.7 The Leader will be a Councillor elected as Leader by full Council for a term not exceeding four years. The Leader will hold office until s/he:
  - (a) Resigns from the office of Leader; or,
  - (b) Is no longer an elected councillor of the Council; or,
  - (c) Removed from office by resolution of full Council on receipt of a Notice of Motion in accordance with the requirements of the Council Procedure Rules set out under Part 2 of this Constitution; or,
  - (d) Is removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer. A change in political control is a change in the composition of the various Political Groups such that a different Political Group or combination of Political Groups now comprise a majority of the membership of the Council; or,
  - (e) Is disqualified from being a Councillor.
- 4.8 Where the Leader no longer holds office, the Deputy Leader will undertake the role of Leader until such time as full Council elects a Councillor to the office of Leader.

### **Deputy Leader**

- 4.9 The Deputy Leader may not vary the executive arrangements made by the Leader or any other arrangements made by the Leader for the discharge of executive functions under this Constitution except:
  - (a) Changes consequent on the dismissal of the Leader from office until such time as a new Leader is elected;

- (b) Where, in the opinion of the Chief Executive, the Leader is incapacitated for such period of time that the efficient operation of the Council would be significantly impaired.

4.10 The Deputy Leader shall be appointed by the Leader annually and will hold office until:

- (a) The next annual meeting of the Council; or,
- (b) They resign from office; or
- (c) Until end of the Leader's term of office and the new Leader has been elected; or
- (d) They are no longer an elected Councillor of the Council; or
- (e) They are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.
- (f) They are disqualified from being a Councillor.

**Cabinet Members**

4.11 Cabinet Members are appointed by the Leader annually at the Annual Meeting and shall hold office until:

- (a) The next Annual Meeting of the Council; or,
- (b) They resign from office; or,
- (c) They are no longer an elected Councillor of the Council; or,
- (d) They are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

4.12 The Leader may appoint a Cabinet Member as a Portfolio Holder with or without individual decision making authority.

4.13 The Leader will appoint a Cabinet Member as the Lead Member for Children's Services in accordance with the Children Act 2004.

**Deputy Cabinet Members**

4.14 The Leader may appoint non-Cabinet Members as Deputy Cabinet Members to advise and assist the Cabinet Members.

4.15 The total number of Deputy Cabinet Members cannot exceed the number of Cabinet Members.

4.16 Deputy Cabinet Members are not authorised to make decisions which are the responsibility of Cabinet Members.

### **Portfolios**

- 4.17 The Leader may allocate areas of responsibility to a Portfolio and assign a Portfolio to an individual Cabinet Member.
- 4.18 The Leader may change a Portfolio in any way for any reason at any time.
- 4.19 The Leader may reassign a Portfolio for any reason at any time.
- 4.20 The Leader may retain a Portfolio which is not assigned to a Cabinet Member.
- 4.21 The Leader will provide details of Portfolios and Portfolio Holders to the Monitoring Officer and shall notify the Monitoring Officer of any changes to a Portfolio or Portfolio Holder as soon as reasonably practicable.
- 4.22 As soon as reasonably practicable the Leader will report the details and allocation of Portfolios and any subsequent changes thereto to full Council and shall publish the details and allocation of the Portfolios on the Council's website.
- 4.23 The nine Portfolios and the areas of responsibility they contain are set out below at section 6.

### **The Scheme of Delegation to Cabinet Members**

- 4.24 The Leader may delegate executive functions on such terms as they consider appropriate to Cabinet Members in accordance with their Portfolios as set out at section 6.
- 4.25 In cases of uncertainty the Monitoring Officer in consultation with the Leader will decide which Cabinet Member should deal with a given matter.
- 4.26 The Leader's delegation to a Cabinet Member may include the following areas of responsibility:
- (a) To consider reports prepared by Officers and to make any decisions in accordance with the requirements of this Constitution;
  - (b) To consider draft reports to the Cabinet with the relevant Executive Director and/or other relevant senior Officer;
  - (c) To determine how expenditure on services should be undertaken within approved budgets;
  - (d) To agree annual reports;
  - (e) To develop and approve service plans of services, including future budget requirements;
  - (f) To oversee the budget and performance for particular services in consultation with the relevant Executive Director;
  - (g) To determine policies for particular services, which are consistent with the approved Policy Framework;



- (h) To agree responses to consultation papers (except for planning consultation papers) questions from councillor and the public at meetings;
- (i) To make payment of grants to outside bodies within the list approved by the Cabinet, except those which fall to the Cabinet itself to decide;
- (j) To approve decisions affecting a particular locality (i.e. which are not service-wide, council-wide or otherwise corporate)

### **The Scheme of Delegation to Officers**

4.27 The Leader may delegate executive functions on such terms as they consider appropriate to identified Officers in accordance with the Scheme of Delegation to Officers set out under Part 7 of this Constitution.

4.28 The Leader may change the Scheme of Delegation to Officers for any reason at any time.

### **Cabinet Committees**

4.29 The Leader or Cabinet may establish a Cabinet Committee at any time to:

- (a) Discharge executive functions on a single occasion or a continuing basis;
- (b) Advise the Leader and / or the Cabinet as a whole;

4.30 The composition and terms of reference of a Cabinet Committee shall be determined by the Leader or Cabinet in consultation with the Monitoring Officer.

4.31 Details of any Cabinet Committee will be notified to full Council and published on the Council's website.

### **Cabinet Meetings**

4.32 Meetings of the Cabinet and any Cabinet Committee shall be conducted in accordance with the Cabinet Procedure Rules set out below under section 5 and shall be open to the press and public in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.

## **5. THE CABINET PROCEDURE RULES**

### **Application**

- 5.1 These Cabinet Procedure Rules (Rules) apply to the proceedings and meetings of the Cabinet.
- 5.2 These Rules do not apply to meetings of full Council, Council Committees or Sub-committees.

### **Delegations by the Leader**

- 5.3 Each year the Leader will prepare a written record of the delegations of executive functions. The record of delegations will detail the executive functions which the Leader has delegated to the Cabinet, Cabinet Committees, specific Cabinet Members or Officers. The record of delegations will be presented to the Council at the Council's Annual Meeting and set out in this Constitution. The record of executive functions delegations will include:
  - (a) The names, contact details and electoral area of those Councillors appointed to the Cabinet by the Leader;
  - (b) The executive functions to be performed by the Cabinet;
  - (c) The executive functions to be performed by a specific Cabinet Member / Portfolio Holder (including any limitations on their authority);
  - (d) The constitution and terms of reference of any Cabinet Committee appointed by the Leader or the Cabinet, and the names of the Cabinet Members appointed by the Leader to serve on any Cabinet Committee;
  - (e) The nature and extent of any executive function delegated to any Joint Committee or any other local authority, body or person along with the names of the Cabinet Members appointed to any Joint Committee for the municipal year;
  - (f) Any changes to any of the delegations to Officers, the job title of the Officers to whom delegations are made, and any limits on their authority.
- 5.4 The record of delegations may be amended by the Leader for any reason at any time. The Leader must provide notice of any amendment to the Monitoring Officer, the as a whole Cabinet, or the Cabinet Committee, individual Cabinet Member or Officer concerned. The notice must set out the extent of the amendment and whether it concerns the withdrawal of a delegation to the Cabinet as a whole, a Cabinet Committee, individual Cabinet Member or Officer, a Joint Committee or joint working arrangement, or other body or person. Where the amendment concerns a change to a delegation to a Joint Committee or joint working arrangement, the Monitoring Officer will report the amendments to the next meeting of the Council.

- 5.5 Where the Leader withdraws a delegation from a Joint Committee, notice do so will be considered as having been provided to the Joint Committee when such notice has been provided by the Leader to the Chair of the Joint Committee.

### **Sub-delegations**

- 5.6 Unless otherwise specified by the Leader or elsewhere under this Constitution the Cabinet or an individual Cabinet Member may sub-delegate to an Officer the discharge of an executive function for which the Cabinet or the Cabinet Member is responsible.
- 5.7 Where an executive function has been sub-delegated, it may still be performed by the Cabinet or the Cabinet Member who made the sub-delegation.
- 5.8 An Officer with delegated authority may refer back to the Cabinet or the Cabinet Member as applicable an executive function which they have been sub-delegated.

### **Conflicts of Interest**

- 5.9 Where the Leader has a conflict of interest they must ensure and that the decision is taken by a Cabinet Member who does not have such a conflict of interest, that the Leader does not influence the decision to be taken.
- 5.10 If every Cabinet Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Executive Director or a senior Officer, or to seeking a dispensation to taking the decision.
- 5.11 Where a decision is being taken regarding a service which is commissioned by a Cabinet Member from an external service provider, Cabinet Members must be mindful of potential conflicts of interest arising if they also sit on the board of the service provider, or are otherwise involved in its governance. In such circumstances Cabinet Members should seek advice from the Monitoring Officer before agreeing to sit on such a board or governance structure.

### **Cabinet Meetings**

#### **Applicable Rules**

- 5.12 Cabinet meetings and meetings for Cabinet Committees are convened and conducted in accordance these Rules and the Access to Information Procedure Rules.
- 5.13 The Council Procedure Rules and the Committee Procedure Rules set out under Part 2 and Part 3 of this Constitution respectively do not apply to meetings of the Cabinet or Cabinet Committees.

#### **Time and Place of Cabinet Meetings**

- 5.14 The Cabinet will meet no less than [ ] each municipal year. 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. At least five clear working days before a meeting, the Monitoring Officer will send a summons signed by them to every Councillor of the Council. The summons will give the date, time and place of the meeting; specify the business to be transacted and will be accompanied by such reports as are available.

### **Quorum**

5.15 The quorum for a Cabinet meeting is 50% of Cabinet Members, not including Cabinet Deputies. If the quorum is not present within ten minutes of the scheduled start of the meeting or such longer time as the Chair allows, the business of the meeting shall be adjourned to the next Cabinet Meeting.

### **Chair**

5.16 The Leader, or in their absence the Deputy Leader shall chair a Cabinet Meeting. In the absence of both the Leader and the Deputy Leader, the Cabinet Members present at the meeting will appoint from amongst themselves some to chair the meeting.

### **Attendance at Cabinet Meetings**

5.17 Members of the press and public may attend all Cabinet Meetings in accordance with Access to Information Procedure Rules set out under Part 1 of this Constitution, except when:

- (a) The Cabinet has decided that the press and public should be excluded for all or part of the meeting because a matter to be considered is likely to result in the disclosure of exempt or confidential information; or,
- (b) The person attending the meeting has been removed on the order of the Chair so as to prevent the disruption of the meeting.

5.18 A Councillor who is not Cabinet Member may attend a Cabinet meeting as a member of the public in accordance with the Access to Information Procedure Rules, except where excluded in accordance with Rule 5.19 above.

5.19 A Councillor who is not a Cabinet Member may only speak at a Cabinet meeting if invited to do so by the Chair and asking a question under Rule 5.36.

5.20 Officers may attend Cabinet Meetings as follows:

- (a) The Chief Executive and the Deputy Chief Executive may attend Cabinet meetings. Other Executive Directors may attend Cabinet meetings at the invitation of the appropriate Cabinet Member;
- (b) The Statutory Officers of the Council or their nominees may attend Cabinet meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the Chair.

5.21 Cabinet Members are not permitted to appoint substitutes to attend Cabinet meetings in their place. The absence of a Cabinet Member will not prevent the consideration or making of decisions in respect of a matter. If a matter has been delegated to an absent Cabinet Member, it may be referred to the Cabinet as a whole for consideration and decisions to be made. An absent Cabinet Member may ask a Deputy Cabinet Member

to speak on his / her behalf, if permitted by the Chair, but Deputy Cabinet Members are permitted to vote at Cabinet Meetings.

### **Order of Business**

5.22 The following business will be conducted at each Cabinet meeting:

- (a) Elect a person to chair if the Leader and Deputy Leaders are not present to chair the meeting;
- (b) To approve the minutes of the last meeting;
- (c) To receive any apologies for absence;
- (d) To receive any declarations of interest;
- (e) To receive any statements from the Leader;
- (f) To consider petitions or motions referred by full Council which relate to executive functions;
- (g) To consider other matters set out in the meeting agenda. The agenda will indicate any matters which are Key Decisions or matters which are exempt or confidential and require the exclusion of the press and / or public.

### **Minutes**

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

5.24 Where an urgent Cabinet meeting is called in accordance with Rule 5.26 above, there is no requirement for the minutes of the previous Cabinet meeting to be signed at the urgent meeting.

### **Disturbance by the Public**

5.25 If a member of the public interrupts the proceedings or otherwise interferes with the conduct of a Cabinet meeting the Chair will warn the person concerned. If that person continues to interrupt or interfere with the meeting the Chair will order their removal from the meeting room.

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

### **Exclusion of the Press and Public**

5.27 Members of the press and public may only be excluded from a meeting of the Cabinet in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.

### **Questions**

#### **Questions on Notice**

5.28 Subject to Rule 5.37 any Councillor may ask a question of the Cabinet on any matter in relation to which the Council has powers or duties or which affects the administrative area of the Council.

### Notice of Questions

5.29 A Councillor may ask a question under Rule 5.36 if either:

- (a) They have given notice of the question in writing or by e-mail to the Monitoring Officer no later than midday three clear working days before the day of the meeting; or,
- (b) The question relates to urgent matters, the Councillor has the consent of the Chair and the content of the question is received by the Monitoring Officer in writing or by e-mail by 9.00 a.m. on the day of the meeting.

### Content of Questions

5.30 All questions must, in the opinion of the Chairman:

- (a) Not be unreasonable;
- (b) Contain no expressions of opinion;
- (c) Relate to matters on which the Council has or may determine a policy;
- (d) Not relate to questions of fact;
- (e) Not require the disclosure of confidential or exempt information;
- (f) Not relate to a matter which is of purely personal concern to an individual / family member.

### Time Allowed for Questions

5.31 The number of questions asked under Rule 5.36 and the total time allowed for consideration of such questions shall be determined by the Chair;

5.32 At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.

5.33 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Cabinet.

### Record of Questions

5.34 The Monitoring Officer will send a copy of any question received under Rule 5.36 to the Chair. Copies of all questions will be available to all Councillors and the public attending the meeting.

5.35 Rejected questions will be returned to the questioner with the reasons for rejection.

### **Order of Questions**

5.36 Questions from Councillors will be asked in the order determined by the Chair except that if the largest opposition Group Leader has a question they will be invited to put it first.

### **Response**

5.37 An answer to a question may take the form of:

- (a) A direct verbal answer;
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) Where the reply cannot conveniently be given verbally, a written response will be provided no later than five clear working days after the meeting.
- (d) Copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

## **Suspension and Amendment of the Cabinet Procedure Rules**

### **Suspension**

5.38 Where permitted by law all of these Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Cabinet Members are present. Suspension can only be for a single item or the duration of the Cabinet meeting.

### **Key Decisions**

5.39 A "Key Decision" In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 20212, Key Decisions are decisions which:

5.39.1 Results in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

5.39.2 Is deemed to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Council's administrative area.

5.40 For the purpose of being a key decision, the Council has determined that the level of expenditure or saving (the Key Decision Financial Threshold) shall be £500,000.

5.41 Subject to Rule 5.47 below (general exception), Rule 5.48 below (special urgency) or Rule 5.48 below (major emergencies), a Key Decision may not be taken unless:

- (a) At least twenty-eight clear days' notice has been published in connection with the matter in question (such notice shall be given by means of the Forward Plan); or
- (b) At least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay; and
- (c) Where the decision is to be taken at a meeting of the Cabinet or a Cabinet Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rules.

### **The Forward Plan**

5.42 The Leader will ensure that notice of all Key Decisions are given at least twenty-eight clear days before they are due to be taken.

5.43 The Council will list all Key Decisions once a month in a Forward Plan indicating which decisions the Cabinet anticipate that they will take during the next four months, together with any particularly significant Key Decisions which are anticipated to be taken will take within the next four to twelve months. The Monitoring Officer may also include in the Forward Plan reference to such other decisions, which are to be taken by the Council or any of its Committees or Sub-Committee or Officers as they consider appropriate.

5.44 The Forward Plan will include the following information in respect of each Key Decision:

- (a) The matter in respect of which the decision is to be taken;
- (b) The person or body by whom the decision is to be taken;
- (c) The date on which, or the period within which, the decision is to be taken;
- (d) A list of the documents which will be considered by the person or body taking the decision;
- (e) Notice, if appropriate, that it is intended that a decision will be taken in a private session because the decision contains confidential or exempt information.

5.45 Where the Cabinet anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information the Cabinet may limit the entry in the Forward Plan to such information as may be disclosed without disclosure provided that notice under Rule 5.43 (e) above has been given.



5.46 The Cabinet shall normally review and update the Forward Plan at least once in every calendar month, and shall make arrangements for the revised Forward Plan to be made available on the Council's website.

### **General Exception**

5.47 Subject to Rule 5.48 (special urgency) or Rule 5.489 (major emergencies) if a matter which is likely to be a Key Decision has not been published for a minimum of twenty-eight clear days on the Council's website, the decision may still be taken if:

- (a) The decision must be taken by such a date that it is impracticable to defer the decision until it has been possible for twenty-eight clear days' notice to be given;
- (b) The Monitoring Officer has informed the relevant Scrutiny Committee Chair in advance in writing and made copies of that notice available to the public at the Council's offices and on the Council's website; and
- (c) At least five clear days have elapsed since the Monitoring Officer complied with (b) above.

### **Special Urgency**

5.48 If Rule 5.49 (major emergencies) below does not apply and, by virtue of the date by which a decision must be taken, Rule 5.47 (general exception) above cannot be followed, and the five clear days' notice of the decision cannot be given, then the decision can only be taken if the agreement of the Chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. Notice in writing of the application to the Chair of the appropriate Scrutiny Committee must be published on the Council's website and copies made available to at the Council's offices. If there is no Chair of a relevant Select Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Mayor, or in their absence the Deputy Mayor will suffice.

### **Major Emergencies**

5.49 In the event of an emergency as listed below, the Leader may take any immediate urgent decision required without consultation. In the event that the Leader cannot be contacted or is unavailable the Deputy Leader may take any immediate urgent decision required without consultation. In the event that neither the Leader or the Deputy Leaders can be contacted, or are unavailable to act for any reason, the Chief Executive may take any immediate urgent decisions required without consultation. A major emergency is any event or circumstance (happening with or without warning) that causes or threatens:

- (a) Death or injury; or,
- (b) Disruption to the community; or,

- (c) Damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.

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

5.50 The Leader will submit quarterly reports to the Council on the Key Decisions taken in accordance with Rule 5.48 (special urgency) above and / or Rule 5.49 (major emergencies) above in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken and the reasons for urgency.

### **Record of Executive Decisions**

- 5.51 After any meeting of the Cabinet, the Monitoring Officer, will produce a record of every executive decision taken at that meeting as soon as practicable. The record will include the decisions taken, the date the decisions were taken, a statement of the reasons for each decision and, where appropriate, any alternative options considered and rejected at that meeting with the reasons. The record will also include any conflicts of interest declared in relation to a decision, detail whether the Monitoring Officer agreed to make a dispensation where a conflict of interest was declared before the decision was taken.
- 5.52 Where an individual Cabinet Member or Officer takes an executive decision under delegated authority the Monitoring Officer will produce a written record detailing the information specified in Rule 5.51 above.
- 5.53 A copy of a record produced in accordance with Rule 5.51 and Rule 5.52, and any report considered by the decision maker will be published on the Council's website and available at the Council's offices.
- 5.54 Nothing in these Rules 5.51 – 5.53 requires the disclosure of exempt or confidential information.

### **Provision of Reports to Scrutiny Committee**

5.55 On the provision of report in accordance with Rule 5.54 , the person who prepared the report will also provide give a copy of it to the Chair of the relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

### **Record of Individual Decisions**

5.56 As soon as reasonably practicable after any decision has been taken by a Cabinet Member, or an Executive Director or relevant senior Officer, which would be an executive decision if taken by a Cabinet Member, the decision maker will prepare, or instruct the Proper Officer to prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. This does not require the disclosure of exempt or confidential information.

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## **6. THE PORTFOLIOS**

6.1 The nine Portfolios and the areas of responsibility they contain are set out below.

### **Infrastructure and Corporate Strategy (Leader)**

- Car Parks and all Car Parking Matters

- Highways, Structures, Sea Defences, and Engineering
- Passenger Transport / Vehicle Fleet
- Transport (Including Transport Policy and Licensing)
- Emergency Planning & Business Continuity
- Oversight of Joint Ventures and Companies
- Corporate Planning and Strategic Direction
- Transformation and Corporate Project Management
- Corporate Governance
- Media and Communications
- Digital and Technology
- National and Regional Affairs

### **Planning, Housing and the Local Plan (Deputy Leader)**

- Development Management and Building Control
- Local Plan and Planning Policy
- Homelessness and Rough Sleeping
- Housing Strategy, Management and Development
- Regional Housing Boards and RSLs
- Conservation and Heritage

### **Children, Young People and Send**

- Statutory Lead for Children's Services
- Home to School Transport Contract
- SEND
- A Better Start Southend
- Children's Safeguarding
- Children's Services
- Family Centre, Early Years and Childcare
- Schools, Education and Learning
- Youth and Connexions
- Youth Justice Service

- Youth Offending Service

### **Climate, Environment and Waste**

- Air Quality Improvement
- Parks, Open Spaces, and Grounds Maintenance
- Street scene and cleansing
- Climate action and carbon reduction
- Marine and Maritime Affairs
- Recycling and waste management
- Cemeteries and Crematoria

### **Community Safety**

- Public Toilets
- Community Safety, CCTV, Police Liaison, and PSPOs
- Adult and Community Learning
- Councillor Development
- Health and Safety (Internal)
- Customer Contact
- Human Resources
- Learning and Workforce Development

### **Culture, Tourism and Business**

- Business Growth and Economic Development
- Tourism, place branding, and marketing
- Pier and Foreshore
- Sport Development
- Town Centre Management
- Museums, Galleries, Theatres, and Libraries
- Community Assets, Cohesion and Engagement

### **Finance, Assets and Investments**

- Public Transport and Concessionary Fares
- Corporate Procurement
- Corporate Budget and Resources Planning
- Risk Management
- Audit
- Council Tax and Business Rates
- Financial Services
- Housing Benefit
- Property and Asset Management
- Grants and Inward Investments

### **Regeneration, Major Projects and Regulatory Services**

- Queensway Development
- Major Capital Programmes
- Levelling Up Fund
- Regulatory Services, Private Sector Housing Standards and Grants
- Regeneration
- Democratic Services, Civic Affairs, and Constitutional Matters
- Registration Services
- Performance Delivery
- Legal Services and Land Charges
- Partnership Performance Delivery

### **Social Care and Healthier Communities**

- Adult Social Care
- Commissioning
- Mental Health Services
- Occupational Therapy
- Health and Well-being Board / Partnership
- Health Inequalities (Strategic Lead)
- Health Integration (SE Essex Alliance)

- Domestic Abuse
- Drugs and Alcohol Service
- Public Health
- Equality & Diversity

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## **7. JOINT ARRANGEMENTS**

- 7.1 Southend-on-Sea City Council works with a wide range of organisations to promote the economic, social and environmental well-being of its residents and businesses. These arrangements can take a variety of forms including formal agreements, joint working, appointments, joint committees and cooperation with third parties.
- 7.2 The Council has entered into the joint authorities and joint committees set out below.

**Joint Authorities**

- The Health and Wellbeing Board and related partnership arrangements;
- Southend Community Safety Partnership
- South East Local Enterprise Partnership

**Joint Committees**

- Parking and Traffic Regulations Outside London Adjudication Joint Committee (PATROLAJC);
- Rochford and Southend-on-Sea Area Action Plan Committee (re Airport)
- Essex Waste Partnership;
- Essex and Southend Joint Waste Project Board;
- South Essex Councils (SEC)

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