

## **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 are eligible and registered to vote can vote at a local election for the Councillor(s) 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 The Chief Executive or Monitoring Officer both of whom can each individually authorise officers to attest the seal.

## **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 other amendments can also be made following consultation with the Group Leaders. In the

event of any disagreement the matter should be referred to the standards committee for determination.

- 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 Councils 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]

## **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 advisor 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	
6. Information which reveals that the authority proposes:  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or,  (b) to make an order or direction under any enactment	
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~~ any document listed is available;

4.32.64.30.6 ~~The fact 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

4.424.40 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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