

# Supplemental Items for Council

**Thursday 6th October 2022 at 7.00 pm**  
in Council Chamber Council Offices  
Market Street Newbury

## Part I

Page No.

17. **Updates to the Constitution (C4260) - Appendices** 3 - 92
- Purpose: To update Council regarding the work undertaken by the Constitution Review Task Group to date, and to propose the approval of the proposed Constitutional updates detailed in the report. The report also advises of the further work that will be undertaken in anticipation of further revisions that are due to be brought forward to Council in December.

Sarah Clarke

Service Director (Strategy & Governance)

For further information about this/these item(s), or to inspect any background documents referred to in Part I reports, please contact Vicki Yull (Principal Democratic Services Officer) on 07824 824 867

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Further information and Minutes are also available on the Council's website at

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## Updates to the Constitution

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<b>Committee considering report:</b>	Council
<b>Date of Committee:</b>	6 <sup>th</sup> October 2022
<b>Portfolio Member:</b>	Councillor Tom Marino
<b>Date Portfolio Member agreed report:</b>	15 <sup>th</sup> September 2022
<b>Report Author:</b>	Sarah Clarke
<b>Forward Plan Ref:</b>	C4260

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### 1 Purpose of the Report

- 1.1 The purpose of this report is to update Council regarding the work undertaken by the Constitution Review Task Group (“the Task Group”) to date, and to propose the approval of the proposed Constitutional updates detailed in this report. The completion of the Constitution review is an important part of the overall good governance of the Council and has been highlighted as an area to complete in the Annual Governance Statement.
- 1.2 The report will also advise of the further work that will be undertaken in anticipation of further revisions that are due to be brought forward to Council in December.

### 2 Recommendations

- 2.1 It is Recommended that Council:
  - (a) approves the Meeting Rules including the Meeting Rules Table, the Questions Appendix, and the Petitions Appendix, which are attached at Appendix A to this Report;
  - (b) approves the Council Rules, which are attached at Appendix B to this Report;
  - (c) approves the Executive Rules, which are attached at Appendix C to this Report;
  - (d) approves the Council Bodies Rules, which are attached at Appendix D to this Report;
  - (e) approves the following Bodies Rules, which are attached at Appendix E to this Report:
    - Appeals Appendix
    - Governance Appendix
    - Health and Wellbeing Appendix
    - Health Scrutiny Appendix

## Updates to the Constitution

- Joint Public Protection Committee Appendix
  - Licensing Appendix
  - Licensing Sub-Committee Appendix
  - Personnel Appendix
  - Planning Appendix
  - Scrutiny Appendix
- (f) notes that the above Rules will replace current Parts of the Constitution, namely:
- Part 4 – Council Rules of Procedure
  - Part 5 – Executive Rules of Procedure
  - Part 6 – Overview and Scrutiny Rules of Procedure
  - Part 7 – Regulatory and Other Committees
  - Part 12 – Personnel Rules of Procedure
  - Part 13 - Codes and Protocols – Appendix A - West Berkshire Code of Conduct for Planning
  - Part 13 – Codes and Protocols - Appendix B - Protocol for Decision-Making by Individual Executive Members
  - Part 13 - Codes and Protocols - Appendix B1– Individual Decision making Process
  - Part 13 - Codes and Protocols – Appendix C - Procedure Rules for Dealing with representations
  - Part 13 - Codes and Protocols - Appendix G - West Berkshire Code of Conduct for Licensing
  - Part 13 - Codes and Protocols – Appendix I - Councillor Call for Action Protocol
- (g) agrees that the changes to the Constitution detailed in this report take effect from 1<sup>st</sup> January 2023;
- (h) delegates to the Monitoring Officer in consultation with the Chairman of the Constitution Review Task Group the power to make minor additional corrections to the parts of the Constitution to ensure consistency in terminology and presentation.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	None directly although the report details the procedures to be followed at full Council when setting the budget. The report also details the process for decision making by Executive, which may consider reports that have significant financial implications.
<b>Human Resource:</b>	None



<b>Legal:</b>	This report proposes changes to the Council's Constitution, and will ensure a clear and transparent decision making framework.			
<b>Risk Management:</b>	There is a risk that any decision of Council could be challenged. Having clear rules governing the manner in which meetings will be conducted, should reduce the risk of challenges being successful.			
<b>Property:</b>	None			
<b>Policy:</b>	None			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
<b>Environmental Impact:</b>	X			The recommendations in this report will enable some participation in Meetings remotely via technology, which will reduce the need for individuals to travel in person to meetings.

<b>Health Impact:</b>		X		
<b>ICT Impact:</b>		X		
<b>Digital Services Impact:</b>	X			The recommendations in this report recognise the ability to engage effectively with residents via social media and digital technology.
<b>Council Strategy Priorities:</b>		X		
<b>Core Business:</b>	X			It is considered that the recommendations in this report will support the effective administration of Council business and contribute to the good governance of the Council.
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	<p>These proposals have been discussed with:                      The Constitution Review Task Group                      Finance &amp; Governance Group                      Joseph Holmes – Executive Director (Resources)                      Shiraz Sheikh – Service Lead, Legal and Democratic                      Stephen Chard – Democratic Services Manager</p> <p>Two Member Workshops were also held, to which Members of the CRTG, and all Chairmen and Vice-Chairmen of existing Committees, Commissions, and the Executive were invited to attend.</p>			

## 4 Executive Summary

- 4.1 It was agreed in July 2019 that a Task Group of the Governance and Ethics Committee would be created to review the entire Constitution to ensure that it remained fit for purpose. The Task Group first met in September 2019, but work was subsequently delayed due to the pandemic.
- 4.2 This report proposes changes to the rules which govern how Council meetings will be conducted. These do not make significant alterations to the existing rules. However, they will provide clarity regarding rules, and a product that will be easier for everybody to navigate and understand.

## Updates to the Constitution

- 4.3 It is recommended that Council retain the changes introduced in December 2021 relating to the Budget Meeting of Council be retained, as the procedure appeared to operate well during the Budget Meeting which took place in March 2022.
- 4.4 The new rules for Council meetings are structured to ensure a standard set of rules which will apply to all Council Meetings. The recommendation also proposes specific Council Rules, and Executive Rules, as Council and Executive are responsible for the most significant decisions taken by the Council, and both these bodies are subject to specific statutory arrangements.
- 4.5 At Appendix E of the report are a set of Council Bodies Rules. These rules apply to bodies established by Council such as Committees, Commissions, and Boards (Bodies). These rules set out the composition, terms of reference and any individual rules of procedure that apply to the Body in question.
- 4.6 The Constitution will be supported by a Glossary, which will define the meaning of key words that appear throughout the various parts of the updated Constitution. This is attached at Appendix F.

## 5 Supporting Information

### Introduction & Background

- 5.1 The Council is undertaking a comprehensive review of the Constitution and this report seeks approval to adopt the first significant part of that.
- 5.2 The Constitution Review Task Group ('Task Group') is a working group consisting of the following Members: Jeff Beck, Graham Bridgman (Chairman), Jeff Brooks, James Cole, David Marsh, Andy Moore, and Howard Woollaston. Councillor Geoff Mayes is a former member of the Task Group. The significant contribution of the Task Group in the formulation of these proposals and the updating of the Constitution should be noted.
- 5.3 This work has also been supported by a number of officers in the Democratic Services Team and from Legal Services, and their contribution to this significant piece of work should also be noted.
- 5.4 Initially the intention was to deal with each existing Part of the Constitution in turn, seeking approval from Council for any required amendments before progressing to the next Part. However, it quickly became apparent that there was considerable overlap and duplication between different Parts, for example, similar or identical rules relating to meetings were contained in Parts 4, 5, 6, and 7. It was therefore determined to seek to create a common set of rules applicable to all formal meetings, with appendices dealing with any differences (eg between particular committees).
- 5.5 It should be noted that the need to undertake the wholesale review of the Constitution was driven by a desire to make the document more user friendly and accessible to all. If approved, the Constitution will be published on-line when it becomes operational, and there will be full indexing with hyperlinks where appropriate.
- 5.6 These proposals were also considered at a meeting of the Governance and Ethics Committee on the 26<sup>th</sup> September 2022. As a result of discussions during that meeting,

## Updates to the Constitution

some minor amendments were made to the proposed Executive Rules, and how these operated with regard to the Deputy Leader.

- 5.7 It is considered that the recommendations in this report will make the rules by which the Council must operate more easy to understand.

## Proposals

- 5.8 It is proposed that the Council adopt the Meetings Rules at Appendix A of this report. These rules provide a common set of operating rules that will apply to public meetings of the Council. This sets out core matters such as the type and order of business at various meetings of the Council. This Part also distinguishes between Motions (proposals that can be submitted by any Member of the Body for debate), and Reports and Recommendations. It is considered that these changes will add improved clarity regarding the process to be followed in a meeting.
- 5.9 The Council has on occasion over the past few years, received a significant number of Motions at meetings of Council, which has created a time pressure on the substantive agenda. The new rules require that the Chairman consult with each Group Leader to assist with his consideration of the priority order of the debates that may take place in the Council Meeting.
- 5.10 The Meeting Rules are supported by a Meetings Rules Table, which is a quick reference guide for anybody wishing to check a rule of procedure related to meetings. This contains information such as the standard items of business at a meeting and the order in which business will be transacted. This also contains details of the procedural motions that can be moved without notice.
- 5.11 There are two further Appendices, one dealing with Questions and one dealing with Petitions. The Questions Appendix does not make any significant change to the current arrangements.
- 5.12 In terms of the Petitions Appendix, this was reviewed as the previous rules related to statutory provisions which were repealed by the Localism Act 2011. The proposed new rules do not change any of the existing limits on the submission of Petitions. Where a Member of the Public submits a petition, they will be informed as to how the petition will be dealt with and will be invited to make representations if their petition is to be considered at a future public Meeting of the Council.
- 5.13 The Council Rules explains the role and purpose of Council, and details procedures that are specific to Council. These proposals effectively replicate the rules that were adopted by Council in December 2021. Many of those changes focussed on the Budget Meeting, and the revised rules were implemented effectively at the Budget Meeting of Council in March 2022. It is therefore proposed that these will continue in force as set out in Appendix B.
- 5.14 The Executive Rules at Appendix C explain the role and purpose of the Executive, and details procedures that are specific to proceedings of the Executive. This effectively outlines the statutory framework that is detailed in the Local Government Act 2000, and in related regulations, that determines how the Executive must operate.

## Updates to the Constitution

- 5.15 The Council Bodies part at Appendix D explains what Council Bodies are. These are effectively the Committees, Commissions, or Boards that are created by Council to undertake work delegated to those Bodies by Council, or directly by statute. This also details how those Bodies may create Sub-Bodies, such as task groups to undertake specific tasks, and sets out the rules regarding the operation of those Sub-Bodies.
- 5.16 Appendix E details the various Appendices that apply to different Bodies. Each one sets out the scope of the Body, the Membership, and Terms of Reference. If agreed by Council, it would be proposed to bring each Appendix to Council for review on an annual basis, with these being approved at the Annual Meeting when Council approves the establishment and Membership of the various Council Bodies. Such a process will ensure that these documents remain up to date with necessary changes.
- 5.17 The Bodies dealt with at Appendix E undertake important work on behalf of the Council. The rules applicable to those bodies have not been significantly altered by the proposed changes. However, the changes have sought to ensure that the rule applicable to those Bodies are more easily found. For example, the Planning Appendix contains provisions that were previously detailed in Part 7, and the Planning Code of Conduct at Part 13. This also seeks to ensure that there is greater clarity regarding the need for Planning Committees to give reasons for decision, and to be clear about conditions that are proposed to be attached to any planning permission.
- 5.18 The Personnel Appendix has been expanded to clarify the role of Members in the appointment of senior officers (Head of Service and above), and in the dismissal of relevant statutory officers.
- 5.19 The Scrutiny Appendix largely replicates the rules that already exist, although this now contains the rules on call in which were previously replicated in the Executive Rules.
- 5.20 It is proposed that these provisions be implemented with effect from January 2023. This will enable the conclusion of the review of Parts 9, 10, and 11 of the Constitution, which contain the Budget and Policy Rules, the Financial Rules, and the Contract Rules by the Task Group. It is intended that the proposed changes to these parts of the Constitution will be brought to Council in December 2022 for consideration.
- 5.21 Delaying implementation of the updates proposed by this Report will ensure that there is no conflict between those Parts that have not yet been reviewed and those which have been updated, which are key parts of the Constitution governing the critical core business of the Council
- 5.22 Once Council has approved the changes, work will be required by the Digital Services Team to create new webpages with relevant hyperlinks. All changes to key operational elements of the Constitution will then be implemented and published together.

## 6 Other options considered

Not making any changes to the current Constitution. This option was rejected as the Council must keep the Constitution under review and it is suggested that changes will assist good governance as the procedures by which the Council is operating will be easier to understand, which will improve transparency and openness.

## 7 Conclusion

- 7.1 The ongoing hard work and significant contribution of the Task Group to the review of the Constitution is noted.
- 7.2 It is considered important to secure Council's approval of these core operating rules, which will enable the second phase of the Constitution updates to be brought to Council in December. It is anticipated that at the conclusion of the second phase, the updated rules will be capable of operating without risk of significant conflict in the Constitutional provisions.
- 7.3 It is therefore recommended that Council approve the proposals detailed in section 2 of this report, to be implemented from January 2023.

## 8 Appendices

- 8.1 Appendix A – Meetings Rules (to follow)
- 8.2 Appendix B – Council Rules (to follow)
- 8.3 Appendix C – Executive Rules (to follow)
- 8.4 Appendix D – Council Bodies Rules (to follow)
- 8.5 Appendix E – Individual Bodies Rules (to follow)

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**Background Papers:** None

**Subject to Call-In:** Yes:  No:

- |  |                                     |
|--|-------------------------------------|
| The item is due to be referred to Council for final approval   | <input checked="" type="checkbox"/> |
| Delays in implementation could have serious financial implications for the Council   | <input type="checkbox"/>            |
| Delays in implementation could compromise the Council's position   | <input type="checkbox"/>            |
| Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months | <input type="checkbox"/>            |
| Item is Urgent Key Decision  | <input type="checkbox"/>            |
| Report is to note only   | <input type="checkbox"/>            |

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## Constitution Update – Parts:

- Meeting Rules
  - Meetings Rules Table
  - Questions Appendix
  - Petitions Appendix
  
- Council Rules
  
- Executive Rules
  - Executive Appendix
  
- Council Bodies Rules
  - Appeals Appendix
  - Governance Appendix
  - Health and Wellbeing Board
  - Health Scrutiny Appendix
  - Licensing Appendix Personnel Appendix
  - Licensing Sub-Committee Appendix
  - Personnel Appendix
  - Planning Appendix
  - Scrutiny Appendix

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## Part []

### Meeting Procedure Rules

#### 1 Introduction

- 1.1 Council Meetings will be conducted in accordance with all relevant legislation including the LGA 1972, the Local Government and Housing Act 1989, the Local Government Act 2000, the Localism Act 2011 and The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.
- 1.2 Where they apply (see below), and subject to any specific Procedure Rules for particular Bodies or Meetings set out in other Parts of the Constitution, these Procedure Rules are required to be followed in relation to public Meetings of the Council, the Executive and other Council Bodies.
- 1.3 These Procedure Rules are not required to be followed in relation to private meetings of Bodies (including Task Groups) but the meeting Chairman may choose to follow some or all of them as desirable in the circumstances.
- 1.4 These Procedure Rules may be:
- 1.4.1 common to all Bodies; or
- 1.4.2 specific to a particular Body or Meeting.
- 1.5 These Procedure Rules set out:
- 1.5.1 items of Business that must be taken first and in a particular order;
- 1.5.2 items of Business that may be taken after those in the category above, but where the order may be varied:
- 1.5.2.1 by the Meeting Chairman; or
- 1.5.2.2 upon a successful Motion to do so;
- 1.5.3 Procedural Motions that may be Moved without Notice;
- 1.5.4 Proposals that may be Moved on Notice.

#### 2 Business at a Meeting – the Meetings Rules Table

- 2.1 The First Appendix to this Part is a Meetings Rules Table setting out various matters including:
- standard Items of Business for particular Meetings;
  - the order in which those Items of Business will be taken;
  - Procedural Motions that may be Moved without Notice at a particular Meeting;
  - Motions and Recommendations that may be Moved on Notice at a particular Meeting;
  - Questions and Petitions that may be asked or presented at a particular Meeting.
- 2.2 If there is any conflict between the wording of the Constitution (excluding the Meetings Rules Table) and the contents of the Meetings Rules Table, the Constitution will prevail.

#### 3 Business at a Meeting – Questions and Petitions

- 3.1 The Second Appendix to this Part sets out the Rules relating to the procedure for Public and Member Questions at particular Meetings.
- 3.2 The Third Appendix to this Part sets out the Rules relating to the procedure for dealing with Petitions.

## 4 Types of Public Meeting

- 4.1 Annual Meeting:
- 4.1.1 the First Annual Council Meeting following local elections - the Leader of Council is elected for the duration of the Council (four years);
- 4.1.2 an Annual Council Meeting (including the First Annual Council Meeting following local elections) - the Chairman and Vice-Chairman of Council are elected, the Leader announces the composition of the Executive, and the size, terms of reference and membership of Bodies is decided;
- 4.1.3 an Annual Meeting of a Body - generally these take place in turn during an adjournment or at the close of the Annual Council Meeting to elect the Body Chairman and Vice-Chairman only.
- 4.2 Council Budget Meeting – more fully detailed in Part [] (Council), this generally takes place in March each year and sets the Council’s budget for the following financial year (and the substantive business of the Meeting is restricted to the budget;
- 4.3 Ordinary Meeting – the Body in question transacts general business, as described further below.
- 4.4 Extraordinary Meeting – the Body in question transacts only the specific business for which the Meeting has been called, as described further below.

## 5 Calling Meetings

- 5.1 The dates and times for Annual, Council Budget, and Ordinary, Meetings are set out in the Timetable of Meetings agreed from time to time by Council.
- 5.2 In any event:
- 5.2.1 the First Annual Council Meeting following an election will take place within twenty-one days of the retirement of the outgoing Councillors;
- 5.2.2 in any other year, the Annual Council Meeting will usually take place in May.
- 5.3 In the event that any adjustment to the date of a Meeting is found to be necessary the appropriate Officer should discuss matters with the Body Chairman and/or Vice-Chairman (and, as necessary and appropriate in the circumstances, the Group Leaders and/or Deputy Group Leaders), with the Body Chairman having the final say as to how to proceed.
- 5.4 An Extraordinary Meeting of a Body may be convened:
- 5.4.1 by the Body Chairman; or
- 5.4.2 by the Monitoring Officer; or
- 5.4.3 by Members of the Body presenting a requisition to the Monitoring Officer signed by at least:
- 5.4.3.1 five Councillors for an Extraordinary Council Meeting; or
- 5.4.3.2 three Members of any other Body for an Extraordinary Meeting of that Body;
- in which event the Extraordinary Meeting shall be called by the Body Chairman or Monitoring Officer as soon as is practicably possible, but not later than seven days from the date that the requisition is presented to them.

## 6 Quorum

- 6.1 The quorum for a Meeting of:
- 6.1.1 Council is 11 Councillors;

- 6.1.2 the Executive is four Executive Members;
- 6.1.3 a Body is one third of the Body membership or four Body Members, whichever is the greater;
- 6.1.4 of a Joint Committee shall be determined by reference to the rules relevant to that Body;
- 6.1.5 a Licensing Sub-Committee or Appeals Panel is three Members;
- 6.1.6 a Sub-Body is one third of the Sub-Body membership or three Sub-Body Members, whichever is the greater, unless the Parent Body decides otherwise where permitted.
- 6.2 During any Meeting if the Meeting Chairman counts the number of Members present and declares there is not a quorum present:
  - 6.2.1 the Meeting will adjourn immediately; and
  - 6.2.2 the remaining business will be considered at a time and date fixed by the Meeting Chairman (or, if the Meeting Chairman does not fix a date, at the next Ordinary Meeting).

## 7 Non-Member Councillors

- 7.1 Councillors who are not Members of a Body may attend any Meeting of a Body.

## 8 Standard Business to be taken in order (where applicable – see Meeting Rules Table)

- 8.1 To elect a Member to be Meeting Chairman if the Body Chairman/Vice-Chairman is not present - any power or duty assigned to the Body Chairman in relation to the conduct of the Meeting may be exercised by the Meeting Chairman.
- 8.2 To receive apologies for an inability to attend the Meeting.
- 8.3 Any Meeting Chairman's remarks to the Meeting and presentations.
- 8.4 To elect the Body Chairman (only at the Annual Meeting, unless there is a vacancy).
- 8.5 To elect the Body Vice-Chairman (only at the Annual Meeting, unless there is a vacancy).
- 8.6 To approve the Minutes of the previous Meeting(s).
- 8.7 To receive Declarations of Interest.
- 8.8 To elect the Leader for a four year term (only at the First Annual Council Meeting following an election, unless there is a vacancy).
- 8.9 To receive the Leader's notification of the number and membership of the Executive (only at an Annual Council Meeting, unless there is a change).
- 8.10 To receive announcements from the Meeting Chairman/Leader/Executive/Chief Executive.

## 9 Standard Business where order can be varied by the Meeting Chairman or on Motion (where applicable – see Meeting Rules Table)

- 9.1 To receive Petitions submitted in accordance with the Petitions Appendix.
- 9.2 To respond to public written Questions submitted in accordance with the Questions Appendix.
- 9.3 To decide on Bodies including:
  - 9.3.1 the size and terms of reference;
  - 9.3.2 the allocation of seats to political groups in accordance with the political balance rules.
- 9.4 To appoint Councillors to Bodies.

- 9.5 To appoint Councillors to Outside Bodies (where the power to appoint has not been delegated, eg to the Leader).
- 9.6 To agree amendments to the Constitution.
- 9.7 To respond to Petitions previously received.
- 9.8 To receive and consider Reports and Recommendations.
- 9.9 To deal with matters referred to the Body.
- 9.10 To consider Motions.
- 9.11 To respond to Members' written Questions submitted in accordance with the Questions Appendix.
- 9.12 To consider Called In items.
- 9.13 To consider the business/any other business specified in the Agenda.

## 10 Procedural Motions (Motions that may be Moved without Notice)

- 10.1 To appoint a Meeting Chairman if the Body Chairman and Vice-Chairman are both absent.
- 10.2 To agree the accuracy of the Minutes/any amendments.
- 10.3 To refer any matter to the Council, the Executive, a Body or an Officer.
- 10.4 To establish a Body or Sub-Body if such need arises from an Agenda item.
- 10.5 To amend or withdraw a Proposal as permitted.
- 10.6 To amend the time limit for speeches (if any).
- 10.7 To allow a member of the public to speak in accordance with these Procedure Rules.
- 10.8 To allow the continuation of the Meeting past 22:00 (to conclude by 22:30 or, at the Meeting Chairman's discretion, by 22:45 for meetings of Council).
- 10.9 To suspend a Procedure Rule where permitted.
- 10.10 To exclude the press and public in accordance with statute.
- 10.11 That a Member Named for Disorderly Conduct not to be further heard or leave the Meeting.
- 10.12 A Closure Motion (see Rules of Debate – Closure Motions below).

## 11 Motions other than Procedural Motions - submission

- 11.1 A Motion must:
  - 11.1.1 be submitted in writing to the Monitoring Officer
  - 11.1.2 relate to a matter or matters of concern to the District;
  - 11.1.3 be submitted in the name of a Member or Members of the Body to which it is addressed;
  - 11.1.4 identify the Meeting to which it is submitted.
- 11.2 A Motion:
  - 11.2.1 may be submitted to any Executive Meeting;
  - 11.2.2 may not be submitted to an Annual Meeting or an Extraordinary Meeting (other than of the Executive);
  - 11.2.3 may only be submitted to the Council Budget Meeting if (in the sole opinion of the S151 Officer) it relates to expenditure or revenue;
  - 11.2.4 may be submitted to an Ordinary Meeting.

- 11.3 A Motion:
- 11.3.1 may be submitted for any Executive Meeting without Notice;
- 11.3.2 must be submitted for any other Meeting on Notice:
- 11.3.2.1 by 10:00 at least seven Clear Working Days before the Meeting to which it is to be submitted; or
- 11.3.2.2 by 10:00 on the day of the Meeting if it is an Urgent Motion and has the written consent of the Body Chairman to which it relates.
- 11.4 Motions will be included in the Summons for the next Meeting of the Body in the order in which they are received unless they are:
- 11.4.1 Motions to the Executive submitted too late to be included; or
- 11.4.2 Urgent Motions
- 11.5 A Motions may be:
- 11.5.1 amended by the Monitoring Officer for the purpose of clarification, in consultation with the Member(s) who submitted it; or
- 11.5.2 amended or withdrawn by the Body Chairman, after informing the Member who submitted it, if it appears the wording is not in order or is framed in improper or unbecoming language.
- 11.6 Motions shall be dated, numbered and entered onto a database in the order in which they are received and the database may be inspected by Members and be open to inspection by the public.
- 11.7 A Motion or amendment in similar terms to one that has been rejected at a meeting of a Body in the past six months cannot be moved.
- 11.8 A Motion may not be moved to rescind a decision made at a meeting of a Body within the preceding six months unless notice of the Motion is given and is signed by at least one quarter of all Members of the Body.

## 12 Motions other than Procedural Motions – procedure at Meeting

- 12.1 The Member who submitted the Motion, or another Member nominated by them, must Move the Motion and another Member must Second the Motion for it to be considered.
- 12.2 If a Motion specified in the Summons is not Moved, it shall be treated as abandoned and shall not be Moved without fresh Notice.
- 12.3 In the event that multiple Motions are submitted for debate at a Meeting, the Chairman will consult with the Group Leaders to determine the appropriate priority for the order of debate.
- 12.4 The Meeting Chairman will have absolute discretion during the Meeting to move from the item of business considering Motions to the next item of business on the Agenda, where the Meeting Chairman considers that to be necessary for the effective administration of the business on the Agenda.
- 12.5 Any Motion submitted to the Executive that relates to a Key Decision will need to comply with the requirements regarding publication of the proposed decision on the Executive Forward Plan prior to any decision being taken (see Part [] (Executive)).
- 12.6 Once Moved and Seconded, the Meeting Chairman will indicate that the Motion will be dealt with in one of the following ways:

- 12.6.1 be referred without debate to a relevant Body for decision because the subject matter falls within their remit for such (for the avoidance of doubt, except in respect of the Council Budget Meeting, any Motion that would materially increase expenditure, involve capital expenditure, materially reduce the revenue of the Council, or involve the disposal of a significant asset, falls within the remit of the Executive);
- 12.6.2 stand adjourned and be referred without debate to a relevant Body for initial consideration and report back because the subject matter falls within their remit for such;
- 12.6.3 be debated at the Meeting in accordance with the Rules of Debate; or
- 12.6.4 stand adjourned to a future Meeting.
- 12.7 Where a Motion has been moved and seconded but is not to be considered at the Meeting:
  - 12.7.1 the mover of the Motion shall be entitled to speak to the Motion for a three minute period;
  - 12.7.2 the Leader or relevant Executive Member shall be entitled to speak in response for a two minute period;
  - 12.7.3 the Motion shall be referred to the next appropriate Meeting of the relevant Body; and
  - 12.7.4 the Mover of the Motion, the Leader and the relevant Executive Member shall receive a copy of the Agenda for that Meeting and shall be invited to attend that Meeting; and:
  - 12.7.5 the Mover of the Motion shall be entitled to speak to the Motion in accordance with the Rules of Debate; and
  - 12.7.6 the Leader or relevant Executive Member shall be entitled to speak in response in accordance with the Rules of Debate; and
    - 12.7.6.1 if the Motion has been referred to the relevant Body for decision, a Report as to the outcome will be included in the Agenda of the next appropriate meeting of the referring Body; or
    - 12.7.6.2 if the Motion has been stood adjourned and referred to the relevant Body for initial consideration, a Report as to the outcome will be included in the Agenda of the next practical/appropriate Meeting of the referring Body and the Motion shall be debated at that Meeting in accordance with the Rules of Debate.

## 13 Reports and Recommendations

- 13.1 A Report may be presented to a Meeting:
  - 13.1.1 to be noted; or
  - 13.1.2 with a proposal to adopt a Recommendation.
- 13.2 The Presenter of a Report shall generally be:
  - 13.2.1 for a Report from or to the Executive, the Leader, relevant Executive Member or a relevant Officer;
  - 13.2.2 for a Report from or to any other Body, the Body Chairman or other Member of the Body, or a relevant Officer.
- 13.3 Where a Report is presented for information, a Member may ask the Presenter a question or may make a statement lasting no longer than three minutes. The Presenter shall be entitled to reply.
- 13.4 Where a Report is presented with a proposal to adopt a Recommendation and that proposal is Moved and Seconded, the Report and Recommendation will be debated in accordance with the Rules of Debate.

## 14 Amendments to Motions or Recommendations

- 14.1 Provided that it could be Moved as an Amendment, the Proposer of a Motion or Recommendation may make a minor alteration to the Motion or Recommendation with the consent of the Secunder and the agreement of the Body Chairman.
- 14.2 A proposed Amendment to a Motion or Recommendation, other than a minor alteration, must:
- 14.2.1 be relevant to the Motion or Recommendation;
  - 14.2.2 not have the effect of negating the Motion or Recommendation;
  - 14.2.3 not seek to introduce new subject matter;
  - 14.2.4 and be to:
    - 14.2.4.1 leave out words; and/or
    - 14.2.4.2 insert or add words.
- 14.3 The Member who submitted the Amendment, or another Member nominated by them, must Move the Amendment and another Member must Second the Amendment for it to be considered.
- 14.4 Only one Amendment may be Moved and discussed at any one time. No further Amendment may be Moved until the Amendment under discussion has been disposed of in accordance with the Rules of Debate.
- 14.5 If an Amendment is carried, the Motion, as amended, takes the place of the original Motion and becomes the Substantive Motion to which any further Amendments are Moved.
- 14.6 Once all Amendments have been disposed of, the Meeting Chairman will put the Substantive Motion to the vote.
- 14.7 Any Amendment considered to be substantial by the S151 Officer in relation to a Motion or Recommendation that has a financial implication shall be the subject of discussion with and must receive the approval of the S151 Officer in advance of the Meeting to ensure that the Amendment does not compromise the Council's financial position.
- 14.8 In relation to the Council Budget Meeting, Part [] (Council) sets out the Rules for substantive Amendments proposed to the budget.

## 15 Withdrawal of Proposal

- 15.1 A Proposal may be withdrawn by the Proposer if the Secunder and the Meeting Chairman consent.
- 15.2 If consent to withdraw is granted no Member may then speak on the Proposal.

## 16 Rules of Debate - Speaking

- 16.1 If the Meeting Chairman stands, raises their hand, or speaks during a Meeting, the Meeting shall be silent and any Member then standing shall resume their seat.
- 16.2 The Meeting Chairman may request an appropriate Officer to speak by way of explanation of, or to draw the attention of the Meeting to, any legal, technical or administrative matter.
- 16.3 With the exception of the Meeting Chairman, Councillors attending a Council Meeting in person may (where able), stand when speaking. Anyone attending a Council Meeting remotely, or attending any other Meeting, may remain seated when speaking.
- 16.4 All speakers shall address the Meeting Chairman when speaking.

- 16.5 The Meeting Chairman shall decide the order of speakers if more than one speaker wishes to speak.
- 16.6 Members shall direct speeches to the matter under discussion, a Point of Order or a Point of Explanation.
- 16.7 In a Council Meeting, speeches shall not exceed three minutes, unless the Meeting consents or another time limit is specified in these Procedure Rules.
- 16.8 There is a general assumption that Councillors who are not Members of a Body but attend a Meeting of that Body will, at the absolute discretion and upon the invitation of the Meeting Chairman, be permitted to speak at the Meeting.

## 17 Rules of Debate – Proposals

- 17.1 In a Council Meeting, a Proposal shall not be debated until it has been formally Moved and Seconded. The Secunder may reserve their speech until a later period in the debate.
- 17.2 In any other Meeting, with the consent of the Meeting Chairman, there may be discussion and debate prior to any Proposal being formally Moved.
- 17.3 The Meeting Chairman may require a Proposal to be put into writing before it is debated or voted upon.
- 17.4 A Member shall speak only once on any Proposal except to Move a relevant Procedural Motion or to raise a Point of Order or Explanation, and when a Proposal is under debate no other Proposal shall be Moved except a relevant Procedural Motion.

## 18 Rules of Debate - Points of Order/Explanation

- 18.1 A Member shall be heard:
  - 18.1.1 immediately on a Point of Order relating to an alleged breach of a Procedure Rule or statutory provision identified by the Member;
  - 18.1.2 when the Meeting Chairman decides it is relevant on a Point of Explanation concerning some material point in the present debate which appears to have been misunderstood.
- 18.2 The ruling of the Meeting Chairman on the validity, and any action to be taken in respect, of Points of Order or Explanation shall be final.
- 18.3 The Meeting Chairman shall rule on the interpretation of the Constitution having, where necessary, taken the advice of the Meeting Clerk and/or Monitoring Officer.

## 19 Rules of Debate - Closure Motions

- 19.1 At the conclusion of a speech of another Member, a Member may Move without comment that:
  - 19.1.1 the debate be adjourned;
  - 19.1.2 the Meeting be adjourned;
  - 19.1.3 the Meeting proceed to the next business; or
  - 19.1.4 the Meeting proceed immediately to Close of Debate.
- 19.2 Should the Closure Motion be Seconded and the Meeting Chairman consider that the question before the Meeting has been sufficiently discussed:
  - 19.2.1 if the Closure Motion is to adjourn the debate or the Meeting, or to proceed to the next business:
    - 19.2.1.1 the Meeting Chairman shall invite the Proposer to reply;



- 19.2.1.2 the Closure Motion shall be put to the vote and, if carried, the debate or Meeting shall stand adjourned, or the Meeting shall proceed to the next business, as the case may be;
- 19.2.2 if the Closure Motion is to proceed immediately to Close of Debate it shall be put to the vote and if carried the Meeting shall proceed immediately to Close of Debate.

## 20 Rules of Debate - Close of Debate

- 20.1 At the close of the debate on a Proposal, the following shall have the right of speech or reply in this order, but shall not introduce any new matter:
- 20.1.1 the Secunder, if they have not already spoken;
- 20.1.2 the relevant Executive Member or Body Chairman if they have not already spoken;
- 20.1.3 the Mover;
- 20.1.4 and, on an Amendment only, the Mover of the original Motion or Recommendation who shall not otherwise speak on the Amendment.

## 21 Voting

- 21.1 Voting shall be by show of hands, or electronically, or otherwise as determined by the Meeting Chairman.
- 21.2 Unless this Constitution or the law provides otherwise any matter will be decided by a simple majority of those present in person and permitted to vote on the matter at the time the question is put.
- 21.3 If there are equal numbers of votes for and against the Meeting Chairman will have a second or casting vote. There will be no restriction on how the Meeting Chairman exercises their vote.
- 21.4 Generally, the voting record in the Minutes will simply indicate whether the vote on the item under consideration was won or lost, but a record of how a vote was, or votes were, cast (as the case may be) will be made:
- 21.4.1 if, immediately after a vote has been taken, any Member requests that their vote for or against or their abstention be recorded; or
- 21.4.2 by way of a named vote such that the Monitoring Officer or Meeting Clerk can identify how each Member voting has cast their vote (eg electronically):
- 21.4.2.1 if any Member requests that the vote be so recorded and three other Members support that request; or
- 21.4.2.2 in accordance with The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (SI 2014/165) (2014 Regulations) in relation to any decisions relating to the setting of the Council's budget, at the Council Budget Meeting.
- 21.5 A Member may request that their opposition to a decision be recorded in the Minutes.

## 22 Confidentiality and Non-Disclosure of Reports

- 22.1 Reports for Meetings which are 'not for publication' in accordance with statutory provisions on the grounds that they contain Confidential Information or Exempt Information shall be treated as confidential and shall not be disclosed by any Member or Officer.
- 22.2 Such Information shall continue to be treated as confidential after the Meeting at which the Report is presented, except insofar as it ceases to be confidential by virtue of any statutory provision or by its inclusion in the public Minutes of the Meeting.

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This Table is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this Table to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this Table, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the table.

Constitution of Body

Where to look for terms of reference, powers, etc

Membership [A] - number of Councillors appointed as Members of Body

Substitutes appointed?

Members appointed by?

Quorum

Councillor Membership politically balanced?

Number of other Members (see notes below and Constitution for who, how appointed, etc)

Standard Items of Business at Meeting (order cannot be varied)

Elect a Member to preside if Chairman/Vice-Chairman of Body not present

Receive apologies for inability to attend the meeting

Chairman's remarks

Elect Chairman of Body (annually at Annual Meeting unless vacancy)

Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)

Approve Minutes of previous meeting(s)

Receive Declarations of Interest

Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)

Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)

Receive announcements from Chairman/Leader/Executive/Head of Paid Service

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Receive Petitions

Respond to public written questions

Decide on Committees, size, terms of reference, allocation of seats, etc

Appoint Councillors to Committees

Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)

Agree any amendments to Constitution

Respond to Petitions previously received

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

Deal with matters referred from Council/Scrutiny Commission

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

Consider Motions submitted by Members

Respond to Councillors' written questions

Consider Called In item

Consider business/any other business specified in the Agenda

Procedural Motions that may be moved without notice

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

Accuracy of Minutes

Closure or adjournment of the meeting

Order of or next business

Refer any matter to Council/Executive/Committee/Statutory Officer

Establish a Committee and appoint members if such arises from an Agenda item

Establish a Task Group and appoint members if such arises from an Agenda item

Establish a Sub-Committee and appoint members if such arises from an Agenda item

Withdraw a Motion or amendment with leave of the Chairman

Amend a Motion as permitted

Amend the time limit for speeches (if any)

Allow member of the public to speak in accordance with Rules

Allow continuation of meeting past 22:00

Suspend a Rule of Procedure where permitted

Exclude the press and public in accordance with the statutory provisions

A Member named for disorderly conduct not to be further heard/leave the meeting

A Closure Motion

Large table with columns for Council, Executive, Health and Wellbeing, Scrutiny, Health Scrutiny, Planning, Licensing, Governance, Personnel, Appeals, and JPPC. Rows list various meetings and items of business with corresponding 'X' or 'F' markers.

- A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see [B]) on the fourth day after the date of the next all council elections.
B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.
C Only Motions relating to Revenue and Expenditure may be considered at the Budget Meeting of Council.
D The Leader of Council chairs the Executive.

The Health & Wellbeing Board (HWB) is a statutory body constituted as a Committee of the Council. Some members are identified by statute, some are appointed by the Council (by the Leader), and some are appointed by the Board. Any obligation to allocate seats to political parties is disapplied in relation to the HWB. The Chairman is nominated by the Council and the Vice-Chairman by the ICB. The quorum must include at least one WBC Councillor and one ICB representative.

At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

The District Planning Committee membership is comprised of the Executive Portfolio Holder with responsibility for Planning plus five Members each from the Eastern and Western Area Planning Committees.

The members for a Licensing Sub-Committee are identified by Officers based on availability following consultation with the Chairman of the Licensing Committee.

The Chairman (or Vice Chairman if the Chairman is absent) of the Licensing Committee will chair a Licensing Sub Committee meeting if present.

The Governance Committee membership is comprised of eight Councillors plus two Parish Council representatives

The Advisory Panel membership comprises two Councillors from the Administration, two from the main opposition party, two Parish or Town Councillors and two (out of three) Independent Persons.

There are no substitutes for Councillor members of the Advisory Panel, but there are two Parish Council member substitutes (and three Independent Persons, with two sitting on a Panel).

Members for an Appeals Panel are identified by Officers based on availability.

The Appeals Committee as a body does not have a Chairman - the Chairman for each Appeals Panel Meeting will be elected at the Meeting.

The Joint Public Protection Committee (JPPC) comprises four members, two from each local authority (for WBC, the relevant Executive Member and the Chairman of the Licensing Committee), plus a Substitute or Substitutes (for WBC the other Executive Members) with the Chairmanship and Vice-Chairmanship rotating between the Executive membership.

## Part []

### Meeting Procedure Rules

#### Appendix: Questions

##### 1 Public Written Questions

- 1.1 Members of the public residing or working in the District, or their representative, may ask a question at a relevant Meeting (see Meetings Rules Table).
- 1.2 Questions must:
  - 1.2.1 relate to the business of the Council;
  - 1.2.2 be a matter for which the Council has responsibility; or
  - 1.2.3 be related to the wellbeing of West Berkshire.

##### 2 Councillors' Written Questions

- 2.1 Councillors may ask any Member of the Executive any question relating to:
  - 2.1.1 the business of the Council;
  - 2.1.2 a matter over which the Council has responsibility; or
  - 2.1.3 the wellbeing of West Berkshire.
- 2.2 Councillors may ask any Chairman of a Committee any question relating to the business of that Committee.

##### 3 Procedure - Submission

- 3.1 Questions may only be asked at an Ordinary Meeting of the Body in question.
- 3.2 Questions must be submitted in writing by post, or electronic mail, to the Monitoring Officer and must specify:
  - 3.2.1 the name of the Councillor; or
  - 3.2.2 the name, address and contact telephone number of the member of the public (or representative).
- 3.3 Questions that do not relate to an item of business on the Agenda for the Meeting in question must be submitted no later than 10:00, seven Clear Working Days before the Meeting.
- 3.4 Questions relating to an item of business on the Meeting Agenda must be submitted no later than 10:00, two Clear Working Days before the Meeting.
- 3.5 Provided that the Body Chairman consents, a question relates to an urgent matter may be considered by a Body if it is submitted to the Monitoring Officer by 10:00 on the day of the Meeting.

##### 4 Procedure - Scrutiny

- 4.1 The Monitoring Officer may reject a question if (in their sole opinion):
  - 4.1.1 it is not about a matter over which the Body to which it has been put has responsibility;
  - 4.1.2 it contains an excessive element of statement beyond the scope of the question;
  - 4.1.3 it is defamatory, frivolous, abusive, or argumentative;
  - 4.1.4 it requires the disclosure of confidential or exempt information;

- 4.1.5 it relates to a licensing or planning application; or
- 4.1.6 it is substantially the same as a question which has been put at a meeting of any Body in the past six months.
- 4.2 Where a question has been rejected a letter will be sent to the questioner setting out the reasons for the rejection.

## 5 Procedure – Written Questions

- 5.1 The Meeting Chairman will nominate an appropriate person to provide an answer to each question in turn or indicate how such an answer will be provided.
- 5.2 An answer may take the form of:
  - 5.2.1 a direct oral answer;
  - 5.2.2 a reference to a Council publication containing the desired information;
  - 5.2.3 a written answer where an oral reply cannot conveniently be given.

## 6 Procedure – Supplementary Questions

- 6.1 A person having received an answer to a written question may ask one supplementary question which must:
  - 6.1.1 arise directly out of the answer given to the original question; and
  - 6.1.2 not introduce any new subject matter.
- 6.2 For the avoidance of doubt the person answering the original question, or the Meeting Chairman, will invite the questioner to ask a supplementary question if the questioner has one.
- 6.3 Questioners must confine their contributions to questions, and answers and must not make statements or attempt to debate the matter.
- 6.4 Where the Meeting Chairman considers that a questioner is contravening this rule they will stop the individual concerned from speaking on this matter.

## 7 Order of Questions and Multiple Questions

- 7.1 The Meeting Agenda shall list the Questions to be answered in order, but the Meeting Chairman may determine that the Questions shall be answered in a different order.
- 7.2 Subject to the Meeting Chairman's discretion, if there is more than one questioner at any Meeting only their first Question shall be answered in turn.
- 7.3 If, after all initial Questions have been answered, there is sufficient time available the Meeting Chairman may allow answers to be given to such Questions as remain in such order as the Meeting Chairman determines.

## 8 Time Limit on Questions

- 8.1 Subject to other Parts (eg in relation to the Council Budget Meeting), the time allowed for written and supplementary Questions at any meeting shall not exceed thirty minutes for public Questions or one hour for Councillors' Questions or such period as the Meeting Chairman may permit.
- 8.2 Questions not answered within that period shall receive a written reply.

## 9 Written Questions concerning the Thames Valley Police and Crime Panel (TVPCP) and Royal Berkshire Fire and Rescue Service (RBFRS)

- 9.1 Subject to the rules within this Appendix, a Councillor may also ask:
  - 9.1.1 the Council's representative on the TVPCP a question on the functions or performance of the TVPCP; or
  - 9.1.2 one of the Council's representatives on the RBFRS a question on the functions or performance of the RBFRS.

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## Part []

# Meeting Procedure Rules

## Appendix: Petitions

### 1 Introduction

- 1.1 The Council welcomes petitions and recognises that they are one way in which people can let the Council know about their concerns. Petitions have a long tradition and can be useful in suggesting levels of support for various proposals.
- 1.2 The Council publishes advice regarding the content and submission of petitions on its website.
- 1.3 In this Appendix “Petitions Officer” refers to the Council Officer or Officers dealing with received petitions.

### 2 What is a Petition?

- 2.1 The Council defines a petition as ‘any communication which is signed or sent to us on behalf of a number of people’. There is a minimum requirement of at least 50 signatories before something is treated as a petition, but exceptions can be made in special cases at the discretion of the Monitoring Officer.
- 2.2 A petition must include:
  - 2.2.1 the name and contact details of the signatory who is the “Petition Organiser” - the person that the Council will contact in relation to dealing with the petition (if the Petition Organiser relinquishes the role another signatory must be identified as Petition Organiser);
  - 2.2.2 either:
    - 2.2.2.1 the name of the Body being asked to consider the petition (see Meetings Rules Table for Bodies able to accept petitions); or
    - 2.2.2.2 the matter or consultation it relates to;
  - 2.2.3 a clear and concise statement of the issue and what is being requested;
  - 2.2.4 unless the Monitoring Officer agrees otherwise, the names of at least 50 valid petitioners (in most cases this will mean that they live, work or study in West Berkshire), which may include the Petition Organiser:
    - 2.2.4.1 for a paper petition, actual signatures from each petitioner would be preferable but this is not essential;
    - 2.2.4.2 petitioners may be required to provide verifiable details that they live, work or study in West Berkshire;
    - 2.2.4.3 other petitioners may be considered if they are relevant to the issue in the petition subject (whilst the Council is keen to hear from people who live, study or work in West Berkshire, this is not always a requirement – a petition from 50 visitors about, for example, the quality of tourism facilities in the district would qualify).
- 2.3 The subject matter of the petition must relate to the District or to something which the Council has responsibility for or over which it has influence:
  - 2.3.1 where the petition relates to a matter which is the responsibility of another public authority the Council will ask the Petition Organiser whether they would like to redirect the petition to that authority;

- 2.3.2 where the petition relates to a matter over which the Council has no influence or responsibility, the petition will be returned to the Petition Organiser with an explanation for that decision.
- 2.4 A petition may be rejected if it:
  - 2.4.1 fails to comply with the requirements above;
  - 2.4.2 is, in the opinion of the Monitoring Officer:
    - 2.4.2.1 a duplicate or a near duplicate of a petition submitted within the previous 12 months;
    - 2.4.2.2 vexatious, abusive or otherwise inappropriate (eg relating to information about an individual or individuals);
  - 2.4.3 contains false signatories, or details of alleged signatories who have not given their permission for their details to be used (the Council has a duty to verify signatories to all petitions, using publicly available databases, and by contacting those named).
- 2.5 In the period immediately before an election or a referendum the Council may need to deal with a petition differently – this will be explained to the Petition Organiser.
- 2.6 Where the guidelines set out here are not followed the Council may decide not to do anything further with the petition.

### 3 Types of Petition

#### 3.1 Ordinary Petitions

These are petitions which do not fall into any of the other petition categories below (nb that a petition raising the issue of possible Councillor misconduct will be taken as a complaint arising under the Localism Act 2011 and dealt with under the Council's Procedure for Local Determination of Allegations as a complaint, and not dealt with under this Petition Scheme).

#### 3.2 Consultation Petitions

These are petitions in response to an invitation from the Council to comment on a particular proposal, policy or application. For example, planning or licensing applications, or proposals concerning speed limits.

#### 3.3 Statutory Petitions

Certain statutes require the Council to consider petitions (eg proposing a directly-elected Mayor or for a review of Parish Councils).

#### 3.4 Petitions to Hold an Officer to Account

Petitioners can seek to require a Senior Officer (Chief Executive, Executive Director, Service Director or Head of Service), identified either by name or by role, to answer questions on a particular matter at a Meeting of the Scrutiny Commission. Such a petition will require a minimum of 750 petitioners, unless it relates to an issue affecting no more than two electoral wards in West Berkshire, in which case the requirement may be reduced to 500 petitioners at the discretion of the Monitoring Officer.

Where such a petition raises issues of competence or misconduct it will be referred to the Chief Executive (or the Head of Human Resources in the case of the Chief Executive) for consideration under the Council's Capability and/or Disciplinary Procedures, and will not be dealt with under this Petition Scheme.

#### 3.5 Petitions for Debate

A petition can seek to have an issue debated at a relevant Meeting. For a petition to be reported to a Meeting for debate by Members it must contain a minimum of 1,500 petitioners, unless it relates to an issue affecting no more than two electoral wards in West Berkshire, in which case the requirement may be reduced to 500 petitioners per ward at the discretion of the Body Chairman in consultation with the Monitoring Officer.

Where it is desired to have a petition debated at a specific Meeting (eg because the Petition Organiser believes that the subject will be an item on the Agenda for that meeting), the petition must be submitted at least ten Clear Working Days before the Meeting in question.

## 4 Submission

- 4.1 A Consultation Petition should be directed to the return address specified in the consultation details or in the notice (etc) regarding the matter in question, application, etc - this will ensure that it is considered at the appropriate time in relation to the matter in question (but nb that relevant consultation, etc, deadlines will be enforced and a petition received after such a deadline will not be valid in relation to the process in question).
- 4.2 If a petition is in relation to a statutory process, or where there is an existing appeal mechanism in place (for example council tax banding), particular submission requirements may apply and will be advised to the Petition Organiser.
- 4.3 For all other petitions, there is a choice of means of submission:
  - paper petitions should be addressed to the Monitoring Officer, West Berkshire Council, Market Street, Newbury RG14 5LD;
  - emailed petitions should be sent to [petitions@westberks.gov.uk](mailto:petitions@westberks.gov.uk);
  - online petitions should be submitted via [www.westberks.gov.uk/petitions](http://www.westberks.gov.uk/petitions) (“the Webpage”). Online petitions will remain open for six weeks unless otherwise agreed with the Petition Organiser;
  - petitions may be submitted at a relevant Meeting by a Councillor or a member of the public (see Meetings Rules Table – nb, only at an Ordinary Meeting – not an Annual Meeting, the Council Budget Meeting or an Extraordinary Meeting).
- 4.3.1 Other than for petitions submitted at a relevant Meeting, the Petition Organiser will be sent acknowledgement of receipt of the petition within five Clear Working Days of its receipt by the Council.
- 4.3.2 Where the petition is not accepted for consideration, the Petitions Officer will advise the Petition Organiser of the grounds for rejection.

## 5 Process – Initial Recording

- 5.1 Consultation Petitions will be reported at the relevant Meeting or to the relevant person taking the decision.
- 5.2 All other petitions will be detailed on the Webpage, including:
  - the subject matter of the petition;
  - the date the petition was received and the closing date for receipt of additional signatures;
  - the number of petitioners (this will be updated weekly until the petition has closed);
  - the name and contact details of the Petition Organiser.

- 5.3 Once Officers have determined how the petition will be considered and when, these details will be added to the petition details on the Webpage and sent to the Petition Organiser within ten Clear Working Days of receipt of the completed petition. If the petition meets the threshold for a debate, this will be confirmed with the Petition Organiser as will details of when the Meeting will take place.
- 5.4 The Monitoring Officer or Petitions Officer will notify relevant Councillors as to petitions received (eg a Ward Member or Executive Member in relation to a petition relevant to that Ward or Portfolio).

## 6 Process – Petition for Debate

- 6.1 A Petition for Debate will generally be listed on the Summons/Agenda for the next Ordinary Meeting of the Body in question after a minimum of ten Clear Working Days after submission (or on the Summons/Agenda for a different Meeting if in the opinion of the Petitions Officer this will be more relevant to the subject matter of the petition – in which event the Petitions Officer will discuss the circumstances with the Petition Organiser).
- 6.2 Where a Petition for Debate is included on the Summons/Agenda for a Meeting:
- 6.2.1 the Petition Organiser will be sent a copy of the Summons/Agenda and invited to the Meeting;
  - 6.2.2 a Report on the subject matter of the Petition may be submitted by Officers;
  - 6.2.3 an Officer, or relevant Member (eg an Executive Member) may set out the background to the issue at the Meeting;
  - 6.2.4 the Petition Organiser or their nominated spokesperson will have up to five minutes to present their position at the meeting;
  - 6.2.5 For a localised petition, Ward Councillors will have up to five minutes (between them if more than one) to make any comments on the petition, which will not limit their ability to participate in the debate;
  - 6.2.6 Members may ask questions of the parties following their submissions; and
- 6.3 The Body may decide to:
- 6.3.1 take or not take the action sought in the petition;
  - 6.3.2 commission any further investigation or Report, etc, into the matter.
- 6.4 Subject to the discretion of the Meeting Chairman, a maximum of 30 minutes is permitted for the discussion of petitions prior to the normal business of a relevant Meeting. Any petitions not considered in this time will be held over to the next relevant Meeting.
- 6.5 Once determined, and if the Petition Organiser was not present for the decision, the Petitions Officer will notify the Petition Organiser of the decision within five Clear Working Days.

## 7 Process – Other Petitions

- 7.1 Consultation Petitions will be dealt with in accordance with the consultation or application process as appropriate (nb that certain petitions of objection to a planning application may trigger a meeting of an Area Planning Committee – see the Planning Committee Appendix).
- 7.2 Statutory Petitions will be dealt with in accordance with the relevant statutory process.
- 7.3 Petitions to Hold an Officer to Account (other than those raising issues of competence or misconduct, which will be dealt with under the Council's Capability and/or Disciplinary Procedures) will be dealt with by the Scrutiny Commission.
- 7.4 The process for dealing with Ordinary Petitions will depend upon the nature of the petition:

- 7.4.1 in some instances the Petitions Officer may be able to seek to resolve the matter by involving the relevant Executive Member or Officer to consider what is being sought and take appropriate action:
  - 7.4.1.1 in this event the Petitions Officer will ask the Petition Organiser whether they consider the matter to have been resolved and, if they agree, that will be an end to the petition process;
  - 7.4.1.2 failing this the petition will continue as if the Executive Member or Officer had not been consulted;
- 7.4.2 unless the matter is in the process of Executive Member/Officer consultation as above (or that process has ended without resolution) the Petitions Officer will provide a response to the Petition Organiser which sets out:
  - 7.4.2.1 who or what Body the petition will be reported to for consideration;
  - 7.4.2.2 when and where that consideration will take place.
- 7.5 Where an Ordinary Petition is submitted and the Petitions Officer determines that it should be referred to a Meeting, and notice has been given to the Monitoring Officer by 10:00 seven clear working days before such a relevant Meeting, details will be included in the Summons or Agenda for the Meeting.
- 7.6 Where an Ordinary Petition is presented at an Executive Meeting (or with less notice than above) and relates to an item of business on the Agenda for that Meeting, it will be dealt with under that Agenda item, otherwise (unless the Leader determines to deal with it at the Meeting) it will be dealt with at the next relevant Executive Meeting.
- 7.7 In all other cases where a petition is to be referred to a Meeting, it will wait for the next relevant Meeting after seven clear working days and details will be included in the Summons or Agenda for the Meeting.

## 8 Process – Consideration of Ordinary Petition at a Meeting

- 8.1 If an Ordinary Petition is to be considered at a Meeting, the following process will be followed:
  - 8.1.1 details will be included on the Summons or Agenda for the Meeting as set out above;
  - 8.1.2 the Petition Organiser will be sent a copy of or link to the Summons/Agenda;
  - 8.1.3 an Officer may be asked to set out the background to the issue at the meeting;
  - 8.1.4 the Petition Organiser or their nominated spokesperson will have up to five minutes to present their petition at the meeting;
- 8.2 Ward Councillors will have up to five minutes to make any comments on the petition;
- 8.3 Councillors may then ask questions of the parties;
  - 8.3.1 the matter will then be discussed by the Body. Possible decisions may be:
    - 8.3.2 to determine the matter;
    - 8.3.3 to refer the matter for investigation and report back; or
    - 8.3.4 to refer the matter up to a meeting of Council or the Executive for determination.
- 8.4 In the case of an Individual Executive Member Decision, the Executive Member will consider representations from the Petition Organiser and Ward Councillors before they proceed to take a decision.
- 8.5 Once determined, the Petitions Officer will notify the Petition Organiser of the decision within five clear working days.

## 9 Communication with the Petition Organiser

- 9.1 The Petitions Officer will keep the Petition Organiser regularly updated with developments on the petition and notify them of the outcome of the petition's consideration in writing within five clear working days of the decision.
- 9.2 When responding to the Petitions Organiser, the Petitions Officer will also forward the same information to the relevant Executive and Shadow Executive Members and Ward Councillors.
- 9.3 The outcome will also be reported to the next practical/appropriate Meeting of the referring Body for information.

## Part []

### Council

#### 1 Establishment

- 1.1 West Berkshire District Council (“West Berkshire Council”, “WBC” or “Council”) is a body corporate which derives its powers from statute.
- 1.2 The Council is the principal authority for the district of West Berkshire, which has a single tier of local government (and is also referred to as a unitary authority).

#### 2 Scope of Role - Statutory

- 2.1 A unitary authority is responsible for the full range of local government services, such as education, transport, planning, social care, waste, trading standards, council tax collection, housing, and licensing.

#### 3 Scope of Role – General

- 3.1 West Berkshire Council operates an executive form of governance in accordance with the Local Government Act 2000 and associated legislation.
- 3.2 Legislation reserves a number of functions to Council. Local authorities also have discretion to determine where responsibility for some functions will sit. All other functions are reserved to the Executive by law.
- 3.3 Thus some functions are the responsibility of the Executive, some are the responsibility of Council, and some are the responsibility of both the Executive and Council.

#### 4 Membership

- 4.1 Council is comprised of 43 District Councillors elected every four years.

#### 5 Chairman of Council

- 5.1 In accordance with s3, LGA 1972, the Chairman of Council shall, unless they resign or become disqualified, continue in office until their successor becomes entitled to act as Chairman of Council.
- 5.2 During their term of office, the Chairman of Council shall not be elected as Chairman of any Body.

#### 6 Meetings – General

- 6.1 Council Meetings will be conducted in accordance with the Meetings Procedure Rules save as set out/added to below.

#### 7 Budget Meeting – Procedure

- 7.1 Budget papers will have been available to Members since the meeting of the Executive prior to the Budget Meeting.
- 7.2 Prior to the Budget Meeting, the Chairman of Council will invite the Political Group Leaders or their duly nominated representatives, together with the Portfolio Holder with responsibility for Finance, to a pre-council briefing to support the effective operation of the Budget Meeting.
- 7.3 The standard items of business (and see the Meetings Rules Table) shall (only) be to:
  - 7.3.1 elect a person to preside if the Chairman or Vice-Chairman of Council is not present;

- 7.3.2 receive apologies for an inability to attend the meeting;
- 7.3.3 receive any declarations of interest from Members;
- 7.3.4 debate the proposed Medium Term Financial Strategy (MTFS);
- 7.3.5 debate the proposed Investment Strategy;
- 7.3.6 debate the proposed Capital Strategy;
- 7.3.7 debate the proposed Revenue Budget.
- 7.4 Proposed amendments to items on the Agenda must be tabled by the Political Groups, and:
  - 7.4.1 where there has been no substantive change to the item (save for any minor grammatical, etc, amendments) following the meeting of the Executive prior to the Budget Meeting:
    - 7.4.2 must be submitted to the S151 Officer by no later than 17:00, five clear working days before the meeting; and
    - 7.4.3 following submission, the S151 Officer will add an opinion to the proposed amendments and will distribute to all Councillors at least three clear working days before the meeting; or
    - 7.4.4 where there has been any substantive change to the item following the meeting of the Executive prior to the Budget Meeting:
      - 7.4.4.1 must be submitted to the S151 Officer by no later than 17:00, three clear working days before the meeting; and
      - 7.4.4.2 following submission, the S151 Officer will add an opinion to the proposed amendments and will distribute to all Councillors at least one clear working day before the meeting.
  - 7.5 Prior to an amendment being voted upon, the proposer of the amendment may request that the Meeting Chairman permit that there be separate votes in respect of parts of the amendment. Subject to any comments from the Council's Statutory Officers, it shall be within the Chairman's discretion to permit separate votes on items within a proposed amendment.

## 8 Themed Debates

- 8.1 Themed debates may occur during the early autumn Meeting of Council.
- 8.2 The subject matter of themed debates are to be agreed at a meeting of the Political Group Leaders, to take place at least six weeks prior to the Meeting. Any theme to be debated should be of relevance to the residents of West Berkshire.
- 8.3 In the absence of agreement, the Chairman of Council will determine the subject matter for debate.
- 8.4 At the Meeting, the Meeting Chairman may determine that questions submitted will receive a written response in accordance with the Questions appendix in order to allow time for the themed debate.
- 8.5 The following guidelines shall be followed for the debate:
  - 8.5.1 the debate will be for a maximum of one hour;
  - 8.5.2 the Leader of each Political Group (or their nominated representative) will be invited to make opening remarks;
  - 8.5.3 there will be no formal time limit on speeches, but the Meeting Chairman will control the allocation of time during the debate, having regard to the political balance of the Council.



## Part []

### Executive

#### 1 Introduction

- 1.1 The Council operates an executive leader and cabinet executive model of governance, as set out in the Local Government Act 2000 (as amended) (“LGA2000”).

#### 2 Leader of Council

- 2.1 The Leader of Council (“the Leader”) shall be a Councillor elected as Leader at the Annual Meeting of Council following local elections, or in the event of a vacancy.
- 2.2 The Leader shall hold office until:
- 2.2.1 they resign from office; or
- 2.2.2 they are removed from office by resolution of the Council; or
- 2.2.3 (following local elections) their successor becomes entitled to act as Leader.

#### 3 Deputy Leader of Council

- 3.1 The Leader shall appoint a Deputy Leader of Council (“the Deputy Leader”) who shall cease to be Deputy Leader if they:
- 3.1.1 resign from the office; or
- 3.1.2 are no longer a Councillor; or
- 3.1.3 they are removed from office by the Leader.
- 3.2 In the event of a vacancy in the post of Deputy Leader, the Leader shall appoint a new Deputy Leader.
- 3.3 The Deputy Leader shall:
- 3.3.1 chair the Executive in the Leader’s absence;
- 3.3.2 act in the Leader’s place if for any reason the Leader is unable to act.

#### 4 Appointment of the Executive

- 4.1 The Leader shall appoint an Executive of at least two, but no more than nine, Councillors including the Deputy Leader (plus themselves) upon their election as Leader.
- 4.2 The Leader shall ascribe executive portfolios to individual Executive Members (each the “Lead Member” for that portfolio).
- 4.3 The Leader shall chair the Executive.
- 4.4 The Executive may not include the Chairman or Vice-Chairman of Council.
- 4.5 There may be no Substitutes for Executive Members at Executive Meetings.
- 4.6 The Leader may change the number and/or composition of the Executive at any time by notifying the Chief Executive in writing.
- 4.7 The Leader shall announce the current composition of the Executive at each Annual Council Meeting and at the next Council Meeting following any change.

## 5 Scope of Role - Statutory

- 5.1 The Leader is responsible for all executive functions as set out in the LGA2000 (“Executive Functions”).
- 5.2 The Executive may make decisions on all matters except those prohibited by law (eg under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000).

## 6 Scope of Role – General

- 6.1 The Leader shall establish an Executive Scheme of Delegation from time to time setting out how Executive Functions are to be discharged.
- 6.2 The Leader may amend the Executive Scheme of Delegation at any time by notifying the Chief Executive and Monitoring Officer in writing.
- 6.3 The Monitoring Officer shall ensure that changes to the Executive Scheme of Delegation are incorporated in the Constitution and notified to all Councillors.
- 6.4 Decisions of the Leader, the Executive, Committees of the Executive, individual Lead Members, and Key Decisions taken under delegated powers of Officers, are referred to together as “Executive Decisions” (for the avoidance of doubt, reports published for information only will not be treated as requiring an Executive Decision).
- 6.5 A Protocol in respect of decisions by the Leader or other Executive Members is contained in an Appendix to this Part.

## 7 Key Decisions

- 7.1 A Key Decision is a decision in respect of an Executive Function that is significant within the meaning of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in that, in the opinion of the Chief Executive, or the S151 Officer, or the Monitoring Officer (each a “Relevant Officer”), it meets the financial and/or community impact criteria set out below.
- 7.2 A decision is significant financially if it will result in the Council:
  - 7.2.1 incurring potential revenue expenditure or making savings above an amount determined by Council;
  - 7.2.2 incurring potential capital expenditure or making savings above an amount determined by Council.
- 7.3 A decision is significant in terms of community impact if its effect on communities living or working in an area comprising two or more Wards or electoral divisions would result in:
  - 7.3.1 a significant number of users of the service in the Wards or divisions being affected; and/or
  - 7.3.2 an impact that will last for a number of years or be permanent; and/or
  - 7.3.3 a significant impact on communities in terms of environmental and social well-being.
- 7.4 The following are not regarded as constituting Key Decisions:
  - 7.4.1 implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the Budget and Policy Framework;
  - 7.4.2 implementing approved actions and targets in annual service plans;
  - 7.4.3 changes arising from amendments to statute where there is little or no discretion.
- 7.5 Where a Key Decision is taken by the Executive, it must be taken in public, except for items that are deemed to include Exempt Information.

## 8 Publicity in connection with Key Decisions (the Executive Forward Plan)

- 8.1 A Forward Plan will be prepared and published at least 28 days before the Key Decision is made unless an urgent decision is required.
- 8.2 The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a Key Decision.
- 8.3 The Forward Plan will describe the following particulars insofar as the information is available, applicable or might reasonably be obtained:
- 8.3.1 the matter in respect of which a decision is to be made;
  - 8.3.2 where the decision taken is by an individual their name and title, if any, and where the decision-taker is a body, its name and details of membership;
  - 8.3.3 the date on which, or the period within which, the decision will be taken;
  - 8.3.4 the identity of the principal individuals or groups that the decision-taker proposes to consult before taking the decision;
  - 8.3.5 the means by which any such consultation is proposed to be undertaken;
  - 8.3.6 the steps any person might take who wishes to make representations to the Executive or decision-taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - 8.3.7 a list of the documents submitted to the decision-taker for consideration in relation to the matter.
- 8.4 Exempt Information and Confidential Information will not be included in the Forward Plan.

## 9 Exceptions to publicity in connection with Key Decisions

- 9.1 Where publicity of a Key Decision for 28 days is impractical, that decision may only be taken:
- 9.1.1 If it is an Urgent Key Decision and the rules relating to such have been followed; or
  - 9.1.2 if the Monitoring Officer has:
    - 9.1.2.1 informed the Scrutiny Commission Chairman or, in their absence, each Scrutiny Commission Member, by notice in writing, of the matter about which the decision is to be made;
    - 9.1.2.2 made a copy of that notice available at the Council offices for inspection by the public and published it on the Council's website.
- 9.2 As soon as reasonably practicable after the Monitoring Officer has complied with paragraph 9.1.2 they must:
- 9.2.1 make available at the Council offices a notice setting out the reasons why compliance with paragraph 8.1 is impracticable; and
  - 9.2.2 publish that notice on the Council's website.
- 9.3 Where the procedure at 9.1.2 has been followed, the decision may be taken after five Clear Days have elapsed.

## 10 Urgent Key Decisions

- 10.1 An Urgent Key Decision is a Key Decision that, in the opinion of a Relevant Officer, needs to be determined urgently, making publicity of the decision in accordance with paragraph 8.1 or compliance with paragraph 9.1.2 impractical. In those circumstances, the Urgent Key Decision can only be made where the Relevant Officer has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred from:

- 10.1.1 the Scrutiny Commission Chairman; or
- 10.1.2 in the absence of the Scrutiny Commission Chairman, the Chairman of Council; or
- 10.1.3 in the absence of the Chairman of Council, the Vice-Chairman of Council.
- 10.2 Where the procedure at 10.1 has been followed, the decision may be taken immediately.
- 10.3 As soon as reasonably practicable after the Relevant Officer has obtained agreement as above, they must:
  - 10.3.1 make available at the Council offices a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred; and
  - 10.3.2 publish that notice on the Council's website.

## 11 Recording and Publication of Executive Decisions

- 11.1 All Executive Decisions will be recorded as soon as practicable, including:
  - 11.1.1 a record of the decision and the date it was made,
  - 11.1.2 the reasons for the decision,
  - 11.1.3 any alternative options considered and rejected in making the decision;
  - 11.1.4 any conflict declared by the decision maker(s) and any dispensations granted.
- 11.2 All Executive Decisions shall be published on the Council's website as soon as practical.

## 12 Call-In

- 12.1 The procedure for Calling-In an Executive Decision is set out in Part [] (Council Bodies, Scrutiny Commission Appendix).

## 13 Decisions not Subject to Call-In

- 13.1 The Call-In procedure shall not apply where the Executive Decision:
  - 13.1.1 has been the subject of a previous Call-In request; or
  - 13.1.2 is due to be referred to Council for final approval (eg the budget);
  - 13.1.3 has been considered by the Scrutiny Commission or one of its Sub-Bodies within the preceding six months; or
  - 13.1.4 in the opinion of a Relevant Officer has to be implemented before the expiry of the call-in period, and:
    - 13.1.4.1 is an Urgent Key Decision; or
    - 13.1.4.2 in the opinion of a Relevant Officer a delay in implementing the decision would have serious financial implications for the Council or could compromise the Council's position.
- 13.2 If a decision is stated not to be subject to Call-In, an explanation to support the reason why that is asserted must be specified in the report. In the event of a dispute over the reason why the item is not subject to Call-In, a decision of a Relevant Officer shall be final.

## 14 Implementation of Decisions

- 14.1 Except for an item that is not subject to Call-In (see 13), Executive Decisions shall not be implemented until either:
  - 14.1.1 the time for a Call-In request has expired without such a request being made; or

14.1.2 the Call-In process has concluded.

## 15 Executive Agenda

15.1 The Agenda for an Executive Meeting shall include any item requested by:

15.1.1 the Leader;

15.1.2 the Council;

15.1.3 the Scrutiny Commission or any Scrutiny Commission Sub-Body;

15.1.4 any Council Committee;

15.1.5 any Statutory Officer (and reports of Statutory Officers may not be deferred if, in the opinion of the Officer concerned, it is necessary for the report to be considered at that Executive Meeting).

15.2 The Leader and the Chief Executive will agree the Agenda for each Executive Meeting to ensure that the volume of business is manageable and appropriate information is available about any item on the Agenda.

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## Part []

### Executive

## Appendix: Protocol for Decision-Making by Individual Executive Member

### 1 Introduction

- 1.1 Individual Executive Members (Portfolio Holders) may make “Individual Decisions”.
- 1.2 Individual Decisions are subject to the same rules and requirements as for Executive Decisions (see Part [] (Executive)) – eg relating to publicity in relation to any proposed decision, and they may be subject to Call In if they meet the relevant criteria (see below).
- 1.3 It has been agreed by Council that Individual Executive Members can make the following Key Decisions:
  - 1.3.1 all decisions relating to Highway Matters which are within the approved budget and policy framework;
  - 1.3.2 with the exception of those strategic plans, strategies and policies requiring Council approval (as set out in Article 5 of the Constitution) decisions relating to all other plans, strategies and policies that the Council is required to produce;
  - 1.3.3 the Council’s response to Government and other consultation documents;
  - 1.3.4 appointments to outside bodies;
  - 1.3.5 decisions relating to Public Rights of Way;
  - 1.3.6 approval by the Leader of the Council’s Forward Plan for Key Decisions to be taken by or on behalf of the Executive;
  - 1.3.7 agreement of Annual Reports and Statements of Purpose;
  - 1.3.8 granting permission to consult publically regarding a Report (etc).
- 1.4 A step by step guide to Individual Decisions is attached to this Appendix.

### 2 The Executive Forward Plan.

- 2.1 The rules relating to publicity in connection with Key Decisions and exceptions to the publicity requirements as set out in Part [ ] (the Executive Rules) apply to any decision of an Individual Executive Member.

### 3 Dates when Individual Decisions can be made

- 3.1 It is the responsibility of each Service Area to ensure that the Executive Member is aware of the forthcoming Individual Decisions and to agree the date when the decision will be taken.
- 3.2 The Executive Member will normally make their decision following advice from relevant Officers.
- 3.3 In the absence of the Executive Member (and with their agreement) the Leader or Deputy Leader of the Council can be authorised to make a decision on their behalf under this procedure.

## 4 Formal Written Report

- 4.1 Before an Individual Decision is made, a written report will be prepared for consideration by the Executive Member.
- 4.2 The report shall include the following information:
  - 4.2.1 the name of the Executive Member within whose portfolio the matter falls;
  - 4.2.2 the issue to be decided with reasons for the decision;
  - 4.2.3 supporting information – a summary of the facts relating to the matter under consideration;
  - 4.2.4 confirmation that the proposed course of action is in accordance with the approved policy and budget framework;
  - 4.2.5 details of any corporate implications (finance, personnel, legal, etc);
  - 4.2.6 the Officer's recommendation and the reasons for that recommendation;
  - 4.2.7 other options considered;
  - 4.2.8 a list of background papers;
  - 4.2.9 details of any consultation undertaken, the method of consultation, and a summary of any representations.
- 4.3 A report which excludes certain information on the grounds that it is Confidential or Exempt Information must state the reasons why such information is exempt from publication.
- 4.4 The report must be emailed to the Monitoring Officer at least seven Clear Working Days before the decision is due to be made.
- 4.5 The report will be sent out to all Members at least five Clear Working Days prior to any decision is made.

## 5 Decision Record Notice

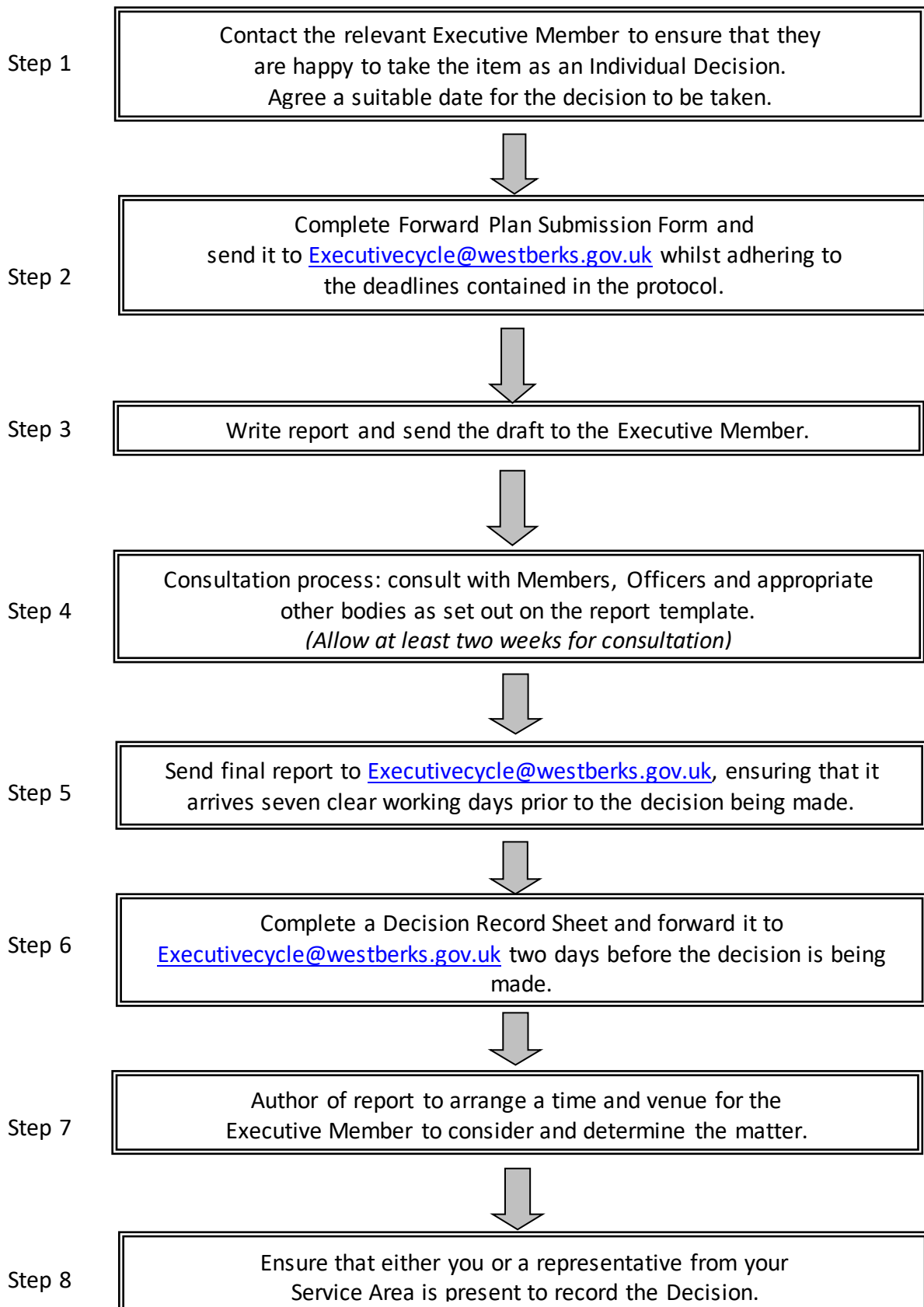
- 5.1 A Decision Record Notice will be prepared by the relevant Officer and contain the following information if not included with the report:
  - 5.1.1 the matter to be decided with reasons for the decision;
  - 5.1.2 other options considered and rejected;
  - 5.1.3 a summary of comments received in response to consultations (including other Members consulted if appropriate);
  - 5.1.4 a list of background papers;
  - 5.1.5 whether or not any Member consulted in connection with the matter or participating in the making of the decision has declared a Conflict of Interest under the Local Code of Conduct.
- 5.2 If a conflict of interest has been declared as above, a copy of the minute of any dispensation granted by the Governance Committee or Chief Executive (as Head of Paid Service) should be attached to the decision notice.
- 5.3 Where the Decision Record Notice contains Confidential or Exempt Information reasons must be given as to why such information is contained.
- 5.4 After each decision has been taken, the relevant Executive Member shall sign, or approve electronic signature of, the Decision Record Notice.
- 5.5 The Decision Record Notice will then be sent to the Monitoring Officer who will make this and the report available via the Council's website.



## 6 Call-In

- 6.1 Decisions of Individual Executive Members are subject to the same Call-In provisions as apply to decisions of the Executive.
- 6.2 The rules relating Call-In are contained in Part [] (Council Bodies, Scrutiny Commission Appendix).

## Individual Decision Making Process - Flowchart



## Part []

### Council Bodies

- 1.1 Bodies - Introduction
- 1.2 The Council has established various Bodies (the term includes Committees, Boards and Commissions – see Glossary) - these may only be added to or removed by the Council.
- 1.3 Each Body will have a number of aspects, many of which will be common (to a greater or lesser extent) to other Bodies and to the Council or Executive. Each Body will have:
- A specified Composition;
  - Terms of Reference;
  - Rules of Procedure;
- and may have:*
- Delegated or Statutory Powers.
- 1.4 The Bodies of the Council are:
- The Appeals Committee;
  - The District Planning Committee;
  - The Eastern Area Planning Committee;
  - The Governance Committee;
  - The Health Scrutiny Committee
  - The Licensing Committee;
  - The Personnel Committee;
  - The Scrutiny Commission;
  - The Western Area Planning Committee.
- 1.5 The following bodies also act in accordance with these Rules with aspects similar to Council Bodies:
- The Health and Wellbeing Board;
  - The Joint Public Protection Committee;

## 2 Bodies – Composition

- 2.1 At each Annual Meeting (or at any other Meeting as necessary) Council will confirm the continuation of, or establish, or amend, or disband, its Bodies and decide upon the composition of each and appoint the membership.
- 2.2 Membership may be required by statute to reflect the Political Balance of the Council.
- 2.3 Bodies may or may not have Substitute Members able to substitute for a Member of a Body unable to attend a particular meeting.
- 2.4 Bodies may or may not have external members.
- 2.5 The specific composition of all Bodies, including the number of members and political affiliations (where the Body is politically balanced), substitutes, etc, is set out in a list published in respect of each Council Annual Meeting and re-published in the event of any changes, and available on the Website, and reflected in the Meetings Rules Table.

### 3 Sub-Committees, Panels and Task Groups (“Sub-Bodies”)

- 3.1 A Body (“Parent Body”) may form one or more Sub-Committees, Panels or Task Groups (together “Sub-Bodies”) as described in this Part and/or in the relevant Appendix to this Part (“Body Appendix”).
- 3.2 In particular:
- The Governance Committee has a Standing Advisory Panel established by Council for certain purposes in relation to the Code of Conduct (and only the Governance Committee has a Standing Panel);
  - The Licensing Committee forms task-limited Sub-Committees from time to time to determine certain types of licensing application;
  - The Appeals Committee forms task-limited Panels from time to time to determine certain appeals against Officer Decisions;
  - The Health and Wellbeing Board has a Steering Group and a number of Sub-, Sub-Sub-, and Sub-Sub-Sub- Bodies (each a “Health and Wellbeing Sub-Body”) as more fully detailed in the relevant Committee Appendices;
  - The Scrutiny Commission and Health Scrutiny Committee may form Task Groups for the purpose of conducting in depth scrutiny reviews on a particular topic.
- 3.3 The Governance Committee Standing Advisory Panel, Licensing Sub-Committees and Appeals Panels are together referred to as the “Standing Sub-Bodies”.
- 3.4 So far as a Sub-Body other than a Standing Sub-Body, is concerned (eg a Health and Wellbeing Sub-Body, a Sub-Committee or a Task Group), unless the relevant Body Appendix and/or the minutes of the meeting of the Parent Body that established it state otherwise:
- 3.4.1 Health and Wellbeing Sub-Bodies will:
- 3.4.1.1 be standing bodies meeting in private; and
- 3.4.1.2 any powers to act will be set out in the relevant Body Appendix and/or the Scheme of Delegation;
- 3.4.2 Sub-Committees will:
- 3.4.3 be standing bodies meeting in public; and
- 3.4.4 any powers to act will be set out in the relevant Body Appendix and/or the Scheme of Delegation;
- 3.4.5 Task Groups will:
- 3.4.5.1 be time- or task- limited bodies generally meeting in private; and
- 3.4.5.2 will have no powers to act, only to advise/recommend.

### 4 Sub-Bodies - Composition

- 4.1 Sub-Body membership may be required by statute to reflect the Political Balance of the Council.
- 4.2 Sub-Bodies may or may not have Substitute Members able to substitute for a Sub-Body Member unable to attend a particular meeting.
- 4.3 Sub-Bodies may or may not have external members, subject to the agreement of the Monitoring Officer.
- 4.4 The composition of the Standing Sub-Bodies is set out in the relevant Body Appendix and reflected in the Meetings Rules Table.

- 4.5 The composition of Sub-Bodies other than the Standing Sub-Bodies will be set out, as appropriate in the circumstances, in the relevant Body Appendix and/or the minutes of the meeting of the Parent Body that established it.
- 4.6 The Parent Body may determine that certain classes of Sub-Body Member (eg Members of the Parent Body) shall be voting members of the Sub-Body and others (eg Non-Councillors) shall be non-voting.
- 4.7 The minimum membership shall be three voting Members for a Task Group and four voting Members for any other Sub-Body, apart from a Licensing Sub-Committee which shall be formed of three voting Members.

## 5 Bodies and Sub-Bodies – Terms of Reference and Delegated Powers

- 5.1 The terms of reference for each Body and Standing Sub-Body are set out in the relevant Body Appendix.
- 5.2 The terms of reference for Sub-Bodies other than the Standing Sub-Bodies are set out, as appropriate in the circumstances, in the relevant Body Appendix and/or the minutes of the meeting of the Parent Body that established it.
- 5.3 When establishing a Task Group, the Parent Body will determine:
  - 5.3.1 the membership of the Task Group;
  - 5.3.2 whether to appoint one of those Members to act as the chairman of the Task Group or let this be determined by the Task Group;
  - 5.3.3 whether any non-Body members should be appointed to the Task Group;
  - 5.3.4 whether there should be substitute members of the Task Group;
  - 5.3.5 who other than Task Group members should be involved with the Task Group's work and who (if anyone) should be consulted
  - 5.3.6 the Terms of Reference for the Task Group;
  - 5.3.7 what the timescale for the task in question should be;
  - 5.3.8 who should be responsible for reporting progress back to the Parent Body and how often;
  - 5.3.9 and any other appropriate matter.
- 5.4 The powers delegated to each Body and, where relevant, Sub-Body are set out in Part [] (Scheme of Delegation).

## 6 Bodies and Sub-Bodies – Rules of Procedure

- 6.1 The general Rules of Procedure for each Body or Sub-Body are set out in Part [] (Meeting Rules).
- 6.2 Specific Rules of Procedure relating to a Body and/or its Sub-Bodies are set out in the relevant Body Appendix.

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## Part []

### Council Bodies

#### Appendix: Appeals Committee

##### 1 Preamble

- 1.1 Part [] (Meetings Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Establishment

- 2.1 The Appeals Committee shall consist of 12 Members reflecting the political balance of the Council. The membership is set out in the Committees List and Meeting Rules Table. There shall be no Substitute Members on the Appeals Committee.
- 2.2 The Appeals Committee shall not have a Chairman, nor an Annual Meeting.
- 2.3 This Appendix shall be circulated amongst the Committee Membership on an annual basis (to coincide with the Annual Meetings of other Bodies) to ensure that it continues to be fit for purpose.

##### 3 Scope of Role - General

- 3.1 The Appeals Committee forms task-limited Panels from time to time to determine certain appeals against Officer Decisions.
- 3.2 An Appeals Panel shall consist of at least three, but preferably four, Members chosen on the basis of availability (and Appeals Panels e not be politically balanced).
- 3.3 The quorum for an Appeals Panel is three Members.
- 3.4 Each Member must receive such formal training and refresher training in the relevant areas as determined by the appropriate Service Manager(s).
- 3.5 Members may not sit on an Appeals Panel in relation to matters concerning their Ward.

##### 4 Scope of Role – Appeals Panels

- 4.1 An Appeals Panel will be formed to determine appeals in respect of:
  - 4.1.1 Council Tax liability;
  - 4.1.2 a refusal to grant permission for Tourist Information Signs;
  - 4.1.3 entitlement to Home-to-School Transport.

##### 5 Scope of Role – employment appeals

- 5.1 A single Member shall be appointed to an employment appeals panel (to consider an appeal by an employee of the Council against a decision affecting their employment) where an employment policy requires that a Councillor to be appointed to such. Such employment appeals panels are governed by their own procedure rules.

##### 6 Appeals Panel Procedure – Prior to Meeting

- 6.1 The parties entitled to speak at a Panel Meeting are:

- 6.1.1 the Appellant (or representative) (references below to the Appellant are to be taken to include any representative of the Appellant);
- 6.1.2 an Officer or Officers.
- 6.2 Officers arranging a Panel Meeting will seek to find a date that the Appellant and sufficient Members can attend (taking into account any statutory limits within which appeals must be heard).
- 6.3 Prior to the Panel Meeting the Appellant will be sent details of the Meeting and of any papers that Officers intend to present to the Panel.
- 6.4 The Appellant will be invited to the Meeting, but may be represented by someone on their behalf if they wish.
- 6.5 Any other person wishing to speak will only be permitted to do so with the agreement of the Panel Chairman.

### 7 Appeals Panel Procedure – Meeting

- 7.1 The first order of business will be for the Members to appoint a Panel Chairman.
- 7.2 The following procedure shall apply in respect of each item as relevant in the circumstances (but the Panel Chairman may change the order at their discretion, or invite any speaker or other person appearing at the hearing to clarify a factual issue at any time):
  - 7.2.1 introduction of item by Officer(s);
  - 7.2.2 questions to Officer(s) from the Panel;
  - 7.2.3 questions to Officer(s) from the Appellant;
  - 7.2.4 representations by the Appellant;
  - 7.2.5 questions to the Appellant from the Panel;
  - 7.2.6 questions to the Appellant from the Officer(s);
  - 7.2.7 summing up by the Officer(s);
  - 7.2.8 summing up by the Appellant;
  - 7.2.9 close of Meeting by the Panel Chairman (with explanation as to next steps).

### 8 Determination following Panel Meeting

- 8.1 Once the Panel Meeting is closed the Members will retire to deliberate.
- 8.2 Determinations will be made within any legislative timescales and the parties informed.

### 9 Signing Minutes

- 9.1 Due to the nature of Appeal Panel Meetings, the Appeals Panel Minutes (Record of Proceedings) will be circulated after the meeting to the Members for them to approve as a true and correct record. Once approved, the Chairman's signature will be applied to the minutes.



## Part []

### Council Bodies

#### Appendix: Governance Committee

##### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Scope of Role

- 2.1 The Governance Committee ("the Committee") will support the Council to establish, maintain, and improve effective governance, risk management, and internal controls.
- 2.2 The Committee is responsible for supporting the Council in the areas of governance, risk management, external audit, internal audit, financial reporting, and for managing the risk of the Council's exposure to fraud and corruption.
- 2.3 Section 27 of the Localism Act 2011 imposes a duty on local authorities to promote and maintain high standards of conduct. Section 28 (6) of the same Act requires that arrangements are in place under which allegations can be investigated and arrangements under which decisions on allegations can be made. The Committee will have oversight of these arrangements.

##### 3 Membership

- 3.1 So far as Councillors are concerned, the Committee shall be politically balanced and its membership will be as set out in the Committees List and Meetings Rules Table.
- 3.2 In addition to its Councillor membership, Council will co-opt up to two independent members to the Committee.
- 3.3 Council shall also have the power to co-opt two non-voting Parish Councillors to the Committee.
- 3.4 In undertaking its duties, the Committee may request attendance of the external auditors at its meetings when appropriate.

##### 4 Terms of Reference

- 4.1 The Committee is responsible for:
  - 4.1.1 ensuring that the Council's corporate governance arrangements are adequate and operating effectively in practice;
  - 4.1.2 considering the Council's corporate governance arrangements and the Annual Governance Statement;
  - 4.1.3 considering and making recommendations to the Council on proposed changes to the Constitution;
  - 4.1.4 providing effective challenge and independent assurance on the risk management and governance framework;
  - 4.1.5 monitoring the effectiveness of the Council's the internal control environment including arrangements for financial management and ensuring value for money;

- 4.1.6 ensuring that counter fraud and corruption arrangements are appropriate for managing the Council's exposure to the risks of fraud and corruption;
- 4.1.7 endorsing the annual Risk Management Strategy and recommending it to the Executive for adoption;
- 4.1.8 reviewing and approving the Council's Statement of Accounts and review and approve the external auditors' annual audit letter;
- 4.1.9 considering any governance issues emanating from the Government and determine their effect on the Council's business and governance processes;
- 4.1.10 considering any issues brought to the attention of the Committee, by the Chief Internal Auditor at any time during the year; and
- 4.1.11 approving the Internal Audit Strategy and Plan (to ensure adequate coverage) and monitor performance (assessing whether adequate skills and resources are available to provide an effective function).
- 4.2 The Committee will review Partnerships arrangements that the Council has entered into, to ensure that they have robust Governance and Risk Management arrangements and that any risk to the Council from the Partnership is minimised.
- 4.3 With the support of the Monitoring Officer, the Committee will promote and maintain high standards of conduct by all Councillors and co-opted members, including:
  - 4.3.1 assisting Councillors and co-opted members to observe the Members' Code of Conduct;
  - 4.3.2 advising the Council on the adoption, or revision of, the Members' Code of Conduct;
  - 4.3.3 monitoring operation of the Code of Conduct;
  - 4.3.4 advising and training councillors and co-opted councillors on matters relating to the Members' Code of Conduct;
  - 4.3.5 granting dispensations to Councillors and co-opted members on requirements relating to interests.
- 4.4 The Committee has responsibility for ensuring that arrangements are in place by which allegations against Members and Co-opted Members of the Council, or of Town or Parish Councils, which assert a breach of the relevant Members' Code of Conduct, can be investigated and determined.

## 5 Advisory Panel

- 5.1 An Advisory Panel (comprising ten Councillors: [two from the Administration, two from the main Opposition Party, two from the Minority Party, two parish/town councillors and two Independent Persons) will be appointed and will be responsible for dealing with any complaints where evidence of a breach of the Code of Conduct has been identified.
- 5.2 In the event that the Advisory Panel finds there has been a breach of the Code of Conduct, it will report its findings to the Governance Committee for a formal decision.
- 5.3 The Advisory Panel will be chaired by an Independent Person.

## Part []

### Council Bodies

#### Appendix: Health and Wellbeing Board

##### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Establishment

- 2.1 S.194(1) Health and Social Care Act 2012 ("HSCA") requires first tier local authorities, such as the Council, to establish a Health and Wellbeing Board ("HWB"). The West Berkshire HWB is referred to below as "the Board".
- 2.2 By s.194(11) HSCA the Board is a committee of the Council and is to be treated as if it were a committee appointed by the Council under s.102 Local Government Act 1972.

##### 3 Scope of Role - Statutory

- 3.1 S.195 HSCA requires the Board to:
  - 3.1.1 encourage integrated working between bodies involved in the commissioning and delivery of health, social care and other public services in order to improve health and wellbeing outcomes for local residents, and in particular;
  - 3.1.2 encourage arrangements between the authority and the NHS under s.75 National Health Service Act 2006 ("NHS Act").
- 3.2 S.196 HSCA provides that the Board shall exercise the functions of the Council under ss.116 and 116A Local Government and Public Involvement in Health Act 2007, namely to lead and co-ordinate actions to:
  - 3.2.1 assess the health needs of local residents and to prepare and publish a Joint Strategic Needs Assessment (JSNA); and
  - 3.2.2 support the preparation and publication of a Joint Health and Wellbeing Strategy, and to oversee delivery of that Strategy.
- 3.3 Ss.2B and 111 NHS Act require the Board to ensure that the Council complies with its duties to improve public health.
- 3.4 S.128A NHS Act requires the Board to assess the need for pharmaceutical services in its area and to publish a Pharmaceutical Needs Assessment.
- 3.5 The Better Care Fund Policy Framework published by NHS England further to s.223 NHS Act (as amended by s.121 Care Act 2014, and the Health and Care Act 2022) requires the Board, subject to any direction by the Secretary of State, to approve submission of the Better Care Fund Plan to NHS England.

##### 4 Scope of Role – General

- 4.1 In general terms HWBs act "as a forum in which key leaders from the local health and care system ... work together to improve the health and wellbeing of their local population" (King's Fund).

- 4.2 The Board will lead the development and review of the Council’s Vision as set out in its Vision Document.
- 4.3 The Board will undertake such oversight of local safeguarding arrangements as it considers appropriate and necessary.
- 4.4 The Board will consider, as appropriate and necessary, reports from Sub-Groups.

## 5 Membership

- 5.1 Applying s.194 HSCA (as amended by the Health and Social Care Act 2022) to the Council, the minimum core Board membership is:
  - 5.1.1 at least one elected Councillor appointed (s.194(3)(a) HSCA) by the Leader of Council;
  - 5.1.2 at least one representative from the Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (“ICB”);
  - 5.1.3 the Council’s Executive Director – People (as both DASS (Director of Adult Social Services) and DCS (Director of Children’s Services));
  - 5.1.4 the Director of Public Health for Berkshire West;
  - 5.1.5 a representative from Healthwatch West Berkshire.
- 5.2 Ss.194(8) and (9) HSCA set out that further Board Members may be appointed:
  - 5.2.1 by the Council (ie by the Leader of Council) in consultation with the Board; or
  - 5.2.2 by the Board itself.
- 5.3 Reg 7 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 disappplies ss.15 and 16, and Sched 1, Local Government and Housing Act 1989 vis-a-vis HWBs such that rules as to political proportionality of seats (etc) on Council committees do not apply to the Board.
- 5.4 Membership of the Board currently consists of the following (with Members encouraged to identify Substitutes to attend if they are unable to do so):
  - the WBC Leader of Council;
  - the WBC Portfolio Holder with responsibility for Adult Social Care;
  - the WBC Portfolio Holder with responsibility for Children and Young People;
  - the WBC Portfolio Holder with responsibility for Health and Wellbeing;
  - the WBC Shadow Spokesperson for Health and Wellbeing;
  - the WBC Minority Group Spokesperson for Health and Wellbeing;
  - the WBC Executive Director – People (as both DASS and DCS);
  - the Director of Public Health, Berkshire West;
  - the WBC Service Director for Communities and Wellbeing;
  - two nominated representatives from the ICB;
  - a nominated representative from Healthwatch West Berkshire;
  - a nominated representative from Berkshire Healthcare NHS Foundation Trust;
  - a nominated representative from Royal Berkshire NHS Foundation Trust;
  - a nominated representative from the Voluntary and Community Sector;
  - a nominated representative from Thames Valley Police;

- a nominated representative from Royal Berkshire Fire and Rescue Service;
- a nominated representative from the housing sector;
- a nominated representative from the arts and leisure sector;

## 6 Chairmanship, Quorum and Voting

- 6.1 The Chairman of the Board shall be nominated by the Leader of Council from amongst the Councillors on the Board.
- 6.2 The Vice-Chairman of the Board shall be nominated from amongst the ICB representatives on the board.
- 6.3 The quorum for a meeting shall be four Members, which must include at least one WBC Councillor and at least one ICB representative.

## 7 Governance and Code of Conduct

- 7.1 S.27 Localism Act 2011 requires that all members of a Council committee (and thus all Board Members in respect of the Board) adhere to the Councillors' Code of Conduct.
- 7.2 Members other than Councillors and Officers (who must do so anyway) must also complete a Register of Interests Form and declare any interests, gifts or hospitality they receive that could influence their decisions.
- 7.3 Members must notify the Monitoring Officer of any disclosable pecuniary interest (DPI) within 28 days of being appointed to the Board and are prohibited from participating in discussion or voting on any matter where they have a DPI.

## 8 Meetings and Decisions

- 8.1 The Board will meet at least five times per year, with ordinary meeting dates published in the Council's timetable for meetings.
- 8.2 Any recommendation, or proposed or prospective action, of the Board that would, in the opinion of the Chairman, impact on the finances or general operation of the Council must be referred to the Executive for final determination and decision.

## 9 Sub-Bodies and Steering Group

- 9.1 The Board is supported by a number of Sub-Bodies, which may have Sub-Bodies themselves, each responsible for an aspect of the Board's work or, in some cases, statutory obligations:
- Ageing Well Task Group;
  - Building Communities Together Partnership;
  - Domestic Abuse Board;
  - Lived Experience Sub-Group;
  - Children's Delivery Group;
  - Health and Wellbeing Engagement Group;
  - Health Inequalities Taskforce;
  - Homelessness Strategy Group;
  - Locality Integration Board;
  - Mental Health Action Group;
  - Skills and Enterprise Partnership;

- Substance Misuse Harm Reduction Partnership;
  - Suicide Prevention Action Group.
- 9.2 The Sub-Bodies may have responsibility for overseeing implementation of particular aspects of the Joint Health and Wellbeing Strategy and its associated Delivery Plan.
- 9.3 The Board is supported by a Steering Group, which is comprised of the Chairman and Vice-Chairman of the Board, together with the chairmen or a representative of each of the Sub-Bodies.
- 9.4 The Vice-Chairman and Chairman of the Board shall be the chairman and vice-chairman respectively of the Steering Group.
- 9.5 The Steering Group's role shall be the effective forward planning, agenda preparation, performance and programme management, and delivery of the Board's decisions.
- 9.6 The Steering Group and the Sub-Bodies:
- may have their own Terms of Reference; or
  - may act in accordance with any resolution of the Board establishing them, or any other resolution of the Board.

## Part []

### Council Bodies

#### Appendix: Health Scrutiny Committee

##### 1 Preamble

- 1.1 Part [] (Council Bodies) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Scope of Role

- 2.1 The role of this Committee is to undertake scrutiny of the planning, development and operation of Public Health and NHS services for citizens of West Berkshire, in accordance with the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- 2.2 Scrutiny of Social Care services within West Berkshire shall remain with the Council's Scrutiny Commission and the Health Scrutiny Committee will report to the Commission.

##### 3 Membership

- 3.1 There will be five Members of the Committee, which will be politically balanced and its membership will be as set out in the Committees List and Meetings Rules Table.
- 3.2 No Executive Member may be a Member or Substitute Member of the Committee or any of its Sub Bodies.
- 3.3 Up to two non-voting co-optees can be appointed to the Committee to provide particular health expertise to assist with a particular review.
- 3.4 No Committee Member may be involved in scrutinising a decision in which they have been directly involved. Any query about the meaning of "directly involved" will be decided by the Monitoring Officer.

##### 4 Terms of Reference

- 4.1 The Committee has the power to review and scrutinise any matter relating to the planning, provision and operation of Public Health and NHS services for citizens of West Berkshire, and in doing so to ensure that services are safe and effective in improving health and wellbeing of local citizens and reducing health inequalities.
- 4.2 Although the Committee may make recommendations for changes or improvements in the way that the Council or other bodies enact their business it does not have any direct decision-making powers, except in the way that it discharges its own responsibilities.
- 4.3 The Committee shall:
  - 4.3.1 proactively seek information about the quality of local Public Health and NHS services, and about the performance of the commissioners and providers of these services, and also to test information provided by commissioners and providers by drawing on different sources of intelligence;

- 4.3.2 consider and respond to consultations by relevant NHS bodies or health service providers, on proposals that both parties agree constitute a substantial development or substantial variation in the provision of health services for citizens of West Berkshire, using the powers set out in the relevant legislation and referring to any guidance issued by the Secretary of State for Health;
- 4.3.3 develop and maintain a joint protocol about how the Committee and responsible NHS bodies and health service providers will reach a view as to whether or not a proposal constitutes a “substantial development” or “substantial variation”;
- 4.3.4 require the relevant NHS body or health service provider to provide information about the proposal under consideration and its impacts on patients in West Berkshire, and where appropriate to require the attendance of a representative of NHS body or health service provider before the Committee to answer such questions as appear to it to be necessary for the discharge of its function in connection with the consultation;
- 4.3.5 liaise with Healthwatch West Berkshire (or its contractors) in relation to the health care element of their work programme, and to consider and respond to referrals from Healthwatch West Berkshire in relation to the planning, provision and operation of health services in the area;
- 4.3.6 set up task and finish groups to undertake in-depth scrutiny reviews in relation to the above services on behalf of the Committee;
- 4.3.7 consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by task and finish groups, for submission to the relevant NHS organisation or other decision maker. Such reports and recommendations to include:
- an explanation of the matter reviewed or scrutinised;
  - summary of the evidence considered;
  - a list of participants involved in the review or scrutiny; and
  - an explanation of any recommendations on the matter reviewed or scrutinised.
- 4.3.8 report on a quarterly basis to the Commission on progress against the work programme and any recommendations it makes.
- 4.4 Where there is a disagreement between the Committee and the relevant NHS body or health service provider, which cannot be resolved after reasonable practicable steps and the Committee believes that:
- the proposed substantial variation or development would not be in the interests of the citizens of West Berkshire; or
  - the arrangements put in place by the relevant NHS body or health service provider for consultation have not been adequate in relation to content or time allowed; or
  - the reasons given for not consulting by the relevant NHS body or health service provider are not adequate;
- the Committee may determine whether to refer the matter to the Secretary of State for Health, in accordance with the relevant legislation and any government guidance, and taking account of any protocol agreed between the Committee and the NHS body or health service provider.
- 4.5 In undertaking the above, the Committee should seek opportunities to engage with and represent local people, and engage them in the health scrutiny process.

## 5 Proceedings

- 5.1 The Committee is responsible for setting its own work programme.



- 5.2 The Committee is not obliged to pursue a matter referred by a Member, Committee or Task Group but it must give reasons for its decision.
- 5.3 If it decides to pursue the matter, the Committee shall:
- 5.3.1 consider representations from the Member who referred it; and
- 5.3.2 report its findings and any recommendations back to the relevant person.
- 5.4 Where a matter is referred to the Committee by local Healthwatch organisations or contractors the Committee must:
- 5.4.1 acknowledge receipt of referrals within 20 working days.
- 5.4.2 keep the local Healthwatch organisations (or contractors as the case may be) informed of any action it takes in relation to the matter referred.

## 6 Evidence - Documents

- 6.1 All relevant NHS bodies and health service providers (including GP practices and other primary care providers and any private, independent or third sector providers delivering services under arrangements made by Integrated Care Boards, NHS England or the Council) have a duty to provide such information about the planning, provision and operation of health services in the area of the authority as the Council may reasonably require to discharge its health scrutiny functions.
- 6.2 The type of information requested and provided will depend on the subject under scrutiny. It may include:
- financial information about the operation of an NHS trust, ICB or other body;
  - management information such as commissioning plans for a particular type of service;
  - operational information such as information about performance against targets or quality standards, waiting times;
  - patient information such as patient flows, patient satisfaction surveys, numbers and types of complaints and action taken to address them.
  - any other information relating to the topic of a health scrutiny review which can reasonably be requested.
- 6.3 As commissioners or providers of public health services and as providers of health services to the NHS, services commissioned or provided by local authorities are themselves within the scope of the health scrutiny legislation. To that end the Council may be a body that is scrutinised, as well as a body that carries out health scrutiny. The duties which apply to scrutinised bodies such as the duty to provide information, to attend before health scrutiny and to consult on substantial reconfiguration proposals will apply to the Council insofar as it may be a “relevant health service provider”.
- 6.4 In relation to services provided or commissioned by the Council, Committee and Task Group Members have the right to documents as set out in the Access to Information Rules in Part [ ].
- 6.5 To facilitate effective scrutiny, more detailed liaison between the Executive and the Committee or a Task Group may take place depending on the particular matter under consideration.
- 6.6 The Committee will be entitled to copies of any document which is in the possession or control of the Executive that relates to a matter under review and which contains material relating to:
- 6.6.1 any business transacted at a meeting of the Executive or its Committees; or
- 6.6.2 any decision taken by an individual Member of the Executive; or

- 6.6.3 any decision made by an Officer under the Executive arrangements
- 6.7 But the Committee will not be entitled to:
  - 6.7.1 any document that is in draft form;
  - 6.7.2 any part of a document that contains Exempt or Confidential Information, unless:
    - 6.7.2.1 that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
    - 6.7.2.2 the Monitoring Officer decides that it is appropriate for such Exempt or Confidential Information to be provided (in which event Commission Members shall respect the confidentiality of the information); or
    - 6.7.2.3 the advice of a political adviser or Group Executive that would be exempt under a Freedom of Information Act request.

## 7 Evidence – Testimony

- 7.1 Members and employees of a relevant NHS body or relevant health service provider have a duty to attend before the Committee or a Task Group (provided reasonable notice has been given) to answer questions the Committee or a Task Group believes are necessary to carry out its health scrutiny functions.
- 7.2 In relation to services provided or commissioned by the Council, the Committee or a Task Group may require the attendance of the relevant Executive Member, or any Senior Officer, to attend a meeting in order to provide advice and evidence in pursuit of a review being undertaken.
- 7.3 The Committee or a Task Group may invite other persons relevant to an item of business or matter under review to address it and/or answer questions on a voluntary basis.
- 7.4 The Committee may consider evidence in open or confidential session as the Chairman thinks appropriate following advice from the Monitoring Officer.
- 7.5 Where the Committee or a Task Group conducts a scrutiny review, the Committee will ask people to attend to give evidence at meetings which will be conducted in accordance with the following principles:
  - 7.5.1 that the meeting is conducted fairly and all Members of the Committee are given an opportunity to ask questions of attendees and speak;
  - 7.5.2 that those assisting the Committee by giving evidence are treated with respect and courtesy; and
  - 7.5.3 that the meeting is conducted so as to maximise the efficiency of the review.
- 7.6 Where any Member or Officer is required to attend the Committee, or Task Groups under this provision, the Chairman of the Committee will inform the Monitoring Officer. Senior Officers can be asked to attend. Officers below second tier may attend but will usually be accompanied by a senior manager.
- 7.7 The Monitoring Officer shall inform the Member or Officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee or Task Group. Where the account to be given to the Committee or Task Group will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that documentation.

## 8 Reports

- 8.1 Following any review, the scrutinising body shall prepare a draft report, with recommendations as appropriate, for publication and submission to the Committee. The Committee will agree or amend the report and direct it to the Monitoring Officer. In cases where the Committee is the scrutinising body, the agreed report will be directed to the Monitoring Officer. The Monitoring Officer will then refer the report, via the Chief Executive and S151 Officer, to check for factual errors and consideration of any financial implications, to:
- 8.1.1 the Council (if the recommendations would require a departure from, or a change to, the agreed Budget or Policy Framework); or
  - 8.1.2 the Executive (if the proposals are consistent with the Budget and Policy Framework); or
  - 8.1.3 another Body as they deem appropriate for a formal response to the report's recommendations; or
  - 8.1.4 an outside body or bodies in respect of a report with implications for such.
- 8.2 Where the Committee or Task Group requests a response from the relevant NHS body or health service provider to which it has made a report or recommendation, there is a statutory requirement (Regulation 22) for the body or provider to provide a response in writing within 28 days of the request.
- 8.3 The response to a recommendation from a decision-maker should consist of:
- 8.3.1 a clear commitment to delivering the measure within the timescale set out
  - 8.3.2 a commitment to be held to account on that delivery in six months or a year's time
  - 8.3.3 where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.
- 8.4 It is the Committee's responsibility to monitor and evaluate recommendations once they are implemented.

## 9 Minority Report

- 9.1 If the Committee or a Task Group cannot agree on one single report to the Executive or to Council or to a named external organisation as appropriate, then up to one minority report may be prepared and submitted for consideration with the majority report.

## 10 Response to Consultation

- 10.1 Where the Committee has been consulted by a relevant NHS body or health service provider on substantial developments or variations, the Committee has the power to make comments on the proposals by the date notified by the body or provider undertaking the consultation. Having considered the proposals and local evidence, the Committee should normally respond in writing to the body undertaking the consultation.
- 10.2 Where the Committee's comments include a recommendation and the consulting organisation disagrees with that recommendation, that organisation must notify the Committee of the disagreement. Both the consulting organisation and the Committee must take such steps as are reasonably practicable to try to reach agreement. Where NHS England or a clinical commissioning group is acting on behalf of a provider, in accordance with the Regulations, the Committee and NHS England or the ICB (as the case may be) must involve the provider in the steps they are taking to try to reach agreement.

- 10.3 Where the Committee has not commented on the proposal or has commented but without making a recommendation, it must notify the consulting organisation as to its decision as to whether to refer the matter to the Secretary of State and if so, the date by which it proposes to make the referral or the date by which it will make a decision on whether to refer the matter to the Secretary of State.

## 11 Referral to Secretary of State

- 11.1 The Committee may refer proposals for substantial developments or variations to the Secretary of State in writing if:
- 11.1.1 it is not satisfied with the adequacy of content of the consultation;
  - 11.1.2 it is not satisfied that sufficient time has been allowed for consultation;
  - 11.1.3 it considers that the proposal would not be in the interests of the health service in its area;
  - 11.1.4 it has not been consulted, and it is not satisfied that the reasons given for not carrying out consultation are adequate.
- 11.2 Where the Committee has made a recommendation and the relevant NHS body or health service provider has disagreed with the recommendation, the health scrutiny body may not refer a proposal unless:
- 11.2.1 it is satisfied that reasonably practicable steps have been taken to try to reach agreement (with steps taken to involve the provider where NHS England or a CCG is acting on the provider's behalf) but agreement has not been reached within a reasonable time; or
  - 11.2.2 it is satisfied that the relevant NHS body or health service provider has failed to take reasonably practicable steps to try to reach agreement within a reasonable period.
- 11.3 In a case where the Committee has not commented on the proposal or has commented without making a recommendation, it may not refer a proposal unless:
- 11.3.1 it has informed the relevant NHS body or health service provider of:
    - 11.3.1.1 its decision as to whether to exercise its power of referral and, if applicable, the date by which it proposed to exercise that power, or
    - 11.3.1.2 the date by which it proposes to make a decision as to whether to exercise its power of referral; and
  - 11.3.2 in a situation where it informed the relevant NHS body or health service provider of the date by which it proposed to decide whether to exercise the power of referral, it has made that decision by that date and informed the body or provider of the decision.
- 11.4 Before making a referral to the Secretary of State, the referral shall be checked by the Monitoring Officer to ensure that it satisfies the requirements as set out in the Regulations and contains the necessary information and evidence.

## 12 Report to Council – Key Decision

- 12.1 The Committee can require a report if it thinks that a Key Decision that affects the health and wellbeing of the local population has been taken which was not:
- 12.1.1 treated as being a Key Decision; or
  - 12.1.2 included in the Forward Plan; or
  - 12.1.3 the subject of the general exception procedure; or
  - 12.1.4 the subject of an agreement with the Committee Chairman, or the Chairman/Vice-Chairman of the Council.

- 12.2 The Committee may then require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Committee.

### 13 Decisions of the Executive

- 13.1 All decisions of the Executive are subject to rules regarding publicity as set out in Part [] (Executive Rules).
- 13.2 Any decision of the Executive which affects the health and wellbeing of the local population may be subject to the Call in Procedure that is fully set out in Part [] (the Scrutiny Commission Appendix). Rules 11 to 17 of the Scrutiny Commission Appendix will apply to the Health Scrutiny Committee, save that any reference to Commission shall be taken for these purposes to refer to the Health Scrutiny Committee.

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## Part []

### Council Bodies

## Appendix: Joint Public Protection Committee

### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

### 2 Introduction

- 2.1 The Joint Public Protection Committee ("JPPC") has been established to oversee the strategic leadership of the Joint Public Protection Partnership ("PPP"), comprising Bracknell Forest Council ("BFC") and West Berkshire District Council ("WBC") (together, "the Councils").
- 2.2 WBC is the host authority for the PPP and, unless otherwise agreed in writing, the WBC Constitution will apply to all procedures and Meetings of the JPPC.

### 3 Scope of Role

- 3.1 The purpose of the JPPC is to:
  - 3.1.1 set the strategic direction for the PPP; and
  - 3.1.2 review:
    - standards of service delivery and performance;
    - fee income and costs (on a cost recovery basis unless a statutory basis applies);
    - the treatment of trading surpluses or deficits;
    - an action plan for business growth and development.

### 4 Membership

- 4.1 The JPPC shall comprise of four Members, two from each of BFC and WBC as follows:
  - 4.1.1 The Executive/Cabinet Member with responsibility for Public Protection Services (appointed by the Leader of the respective council);
  - 4.1.2 One additional Member (appointed by each Council at its respective Annual Meeting or in the event of a vacancy).
- 4.2 At least one officer representing each partner local authority will attend the JPPC to advise Members. Where possible, the Public Protection Manager for the Service will also attend.

### 5 Chairman and Vice-Chairman

- 5.1 The JPPC shall appoint one of its Members to be Chairman of the JPPC on an annual basis (or in the event of a vacancy) who shall continue in office until their successor becomes entitled to act.
- 5.2 The Chairmanship and Vice-Chairmanship of the JPPC shall rotate between the Councils on an annual basis, with each post being held by a different Council.

## **6 Quorum**

- 6.1 The quorum of a Meeting shall be two.
- 6.2 At least one Member from each Council must be present for the meeting to be quorate.

## **7 Frequency of Meetings**

- 7.1 The JPPC will meet a minimum of twice per year (on a six monthly basis). Additional meetings may take place with the agreement of the Chairman. Meetings will be held at a venue to be agreed with the Chairman.

## **8 Significant Decisions**

- 8.1 The JPPC shall refer back to the Councils for decision any proposal that it has agreed in principle seeking to:
  - 8.1.1 admit an additional party or parties to the PPP;
  - 8.1.2 incur expenditure which requires increased contributions by the Councils; or
  - 8.1.3 make significant changes to the fundamental principles or operation of the PPP.

## **9 Forward Plan**

- 9.1 The JPPC will take Key Decisions on behalf of the two Councils and will give notice of these decisions at least 28 days before they are due to be taken.

## **10 Administration**

- 10.1 WBC will provide administration for the JPPC.



## Part []

### Council Bodies

#### Appendix: Licensing Committee

##### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Establishment

- 2.1 The Licensing Act 2003 requires each licensing authority to establish a licensing committee.
- 2.2 The Licensing Committee shall consist of 12 Members reflecting the political balance of the Council. The membership is set out in the Committees List and Meeting Rules Table. There shall be no Substitute Members on the Licensing Committee.

##### 3 Scope of Role

- 3.1 The Licensing Committee is responsible for exercising (or delegating), where legislation permits;
  - 3.1.1 any of the Council's licensing functions under or related to:
    - 3.1.1.1 the Licensing Act 2003;
    - 3.1.1.2 the Gambling Act 2005; or
  - 3.1.2 any other:
    - 3.1.2.1 functions which legislation confers on a Licensing Authority or Licensing Committee;
    - 3.1.2.2 matters associated with or related to Licensing Committee functions or delegated to it by the Council.
- 3.2 The Licensing Committee may establish one or more Sub-Committee and may delegate its functions to it, or an Officer, where legislation permits.
- 3.3 Where a duty arises to hold a hearing to determine a matter pursuant to the Licensing Committee's functions, the Licensing Committee:
  - 3.3.1 will appoint a Sub-Committee to determine such matters; but
  - 3.3.2 where the Chairman so decides, the Licensing Committee may determine the matter rather than forming a Sub-Committee to do so, in which case it will adopt the same process as outlined in the Licensing Sub-Committee Appendix.
- 3.4 The Licensing Committee also makes determinations in respect of the Council's other regulatory licensing functions including taxi licensing and street trading.
- 3.5 The Licensing Committee will also consider licensing matters generally.

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## Part []

### Council Bodies

#### Appendix: Licensing Sub-Committee

##### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.
- 1.3 Any reference to a 'hearing' in this Appendix shall also be taken to mean Meeting.

##### 2 Establishment

- 2.1 Licensing Sub-Committees are established by the Licensing Committee and consist of three Members of the Licensing Committee. They need not be politically balanced and Members of the Sub-Committee are chosen on the basis of availability.
- 2.2 Before serving on any Sub-Committee, each Licensing Committee Member must receive such formal training and subsequently refresher training in the licensing system as determined by the Council.
- 2.3 Sub-Committees may have one Substitute Member, but a Substitute Member must be drawn from the Licensing Committee and is chosen on the basis of availability.
- 2.4 Members of the Licensing Committee may not sit on a Sub-Committee in relation to a matter concerning a premises, activity or event which is within their Ward.
- 2.5 If the Chairman or Vice-Chairman of the Licensing Committee is sitting on the Sub-Committee they will be Meeting Chairman unless they decline. If neither are present or they decline, the first item of business of the Sub-Committee will be to elect a Chairman.

##### 3 Scope of Role

- 3.1 Generally Sub-Committees will be established where a duty arises for a hearing to be held to make determinations pursuant to Licensing Committee functions. This Appendix sets out the procedure to be followed for Licensing Sub-Committee hearings. If a Sub-Committee or other Sub-Body is established to exercise another function, the Licensing Committee may specify the procedure or terms of reference of that Sub-Committee or Sub-Body is to follow upon delegating that function to it.
- 3.2 The procedure in this Appendix is subject to legislative requirements. The hearing procedures that may be prescribed by legislation will depend on the matter to be determined. For example, certain procedures are set out in:
  - 3.2.1 the Licensing Act 2003 (Hearings) Regulations 2005; and,
  - 3.2.2 the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.
- 3.3 The relevant procedural information will be provided to those entitled to speak at a hearing when notice of the hearing is given. The Sub-Committee will be assisted by a Legal Advisor.

##### 4 Hearing Procedure – Speakers

- 4.1 The parties entitled to speak at a hearing will generally include:

- 4.1.1 the Applicant;
- 4.1.2 persons who have made relevant representations, as defined by the relevant legislation;
- 4.1.3 Responsible Authorities, as defined by the relevant legislation, who have made relevant representations;
- 4.1.4 the Chief of Police, where a statutory notice has been given under the relevant legislation; and
- 4.1.5 the (proposed or actual) holder of the licence, certificate or permit affected, where they are not the Applicant.
- 4.2 The Sub-Committee shall also ask and permit to speak, where appropriate and where they attend:
  - 4.2.1 Responsible Authorities who have not made relevant representations; and
  - 4.2.2 the relevant Ward Councillor(s).
- 4.3 Any reference to a party/parties in this Appendix shall also include that party's/parties' representative or agent.
- 4.4 Parties, excluding Responsible Authorities and Ward Councillors, who have made relevant representations will be grouped together as 'Supporters' or 'Objectors' as appropriate.
- 4.5 Prior to a hearing, the parties will be notified of the hearing and will be asked to confirm whether they intend to attend and to register to speak. Any failure to confirm attendance or register to speak may affect speaking rights at the hearing.
- 4.6 Any person or body not referred to above, who attends the hearing, shall only be permitted to speak with the agreement of the Sub-Committee, or as otherwise permitted in legislation.

## 5 Meeting Procedure – Order of Representations etc

- 5.1 The Meeting Chairman, on behalf of the Sub-Committee, shall explain the procedure being followed at the beginning of a hearing.
- 5.2 The following procedure shall apply in respect of each item as relevant in the circumstances (but the Meeting Chairman may change the order at their discretion, or invite any speaker or other person appearing at the hearing to clarify a factual issue at any time):
  - 5.2.1 introduction of item by Officer(s);
  - 5.2.2 questions to Officer(s);
  - 5.2.3 representations by Applicant;
  - 5.2.4 questions to Applicant;
  - 5.2.5 representations by party responding to the application, where applicable (ie (proposed or actual) holder of the licence, certificate or permit affected);
  - 5.2.6 questions to Respondent, where applicable;
  - 5.2.7 representations by Objector(s);
  - 5.2.8 questions to Objector(s);
  - 5.2.9 representations by Supporter(s);
  - 5.2.10 questions to Supporter(s);
  - 5.2.11 representations by Responsible Authorities;
  - 5.2.12 questions to Responsible Authorities;
  - 5.2.13 representations by Ward Councillor(s);

- 5.2.14 questions to Ward Councillor(s);
- 5.2.15 summing up by the Applicant;
- 5.2.16 summing up by the party responding to the application, where applicable;
- 5.2.17 closing of the hearing by the Chairman.
- 5.3 The total time allowed for representations in respect of each of the groups of speakers shall not exceed ten minutes or such longer period as the Chairman may allow with the consent of the Sub-Committee.
- 5.4 Each individual Responsible Authority shall be treated as an individual group for the purposes of speaking rights.
- 5.5 Where more than one person is entitled or has registered to speak in any of the groups of speakers, the ten minute period shall be shared between them. In such circumstances, speakers are encouraged to appoint a spokesperson, but if no spokesperson is nominated, the speaker will be heard in the order in which they have registered until the ten minute period has elapsed.
- 5.6 Where there is more than one Ward Councillor speaking, but requiring a fundamentally different outcome, the speakers will be allowed ten minutes each; where the outcome required is fundamentally the same, the ten minutes will be shared by the speakers.
- 5.7 Any questions to each group shall be from the Sub-Committee first, followed in turn by each group listed in the order of speakers above unless otherwise directed by the Chairman and shall be through the Chairman.
- 5.8 Questions raised as part of the above process may only seek to clarify a statement made and not to introduce new business.
- 5.9 The total time allowed for summing up (to respond to any of the representations made), in respect of each of the groups of speakers identified above shall not exceed ten minutes, and shall only take place after all representations and questions are dealt with.

## 6 Determination following hearing

- 6.1 Once the hearing is closed the Members of the Sub-Committee will retire to deliberate in private.
- 6.2 Determinations will be made within the timescales set out in legislation, which depends on the type of hearing. For most hearings the Sub-Committee must make its determination within the period of five working days beginning with the day or the last day on which the hearing was held.

## 7 Signing Minutes

- 7.1 Due to the nature of Meetings, the Sub-Committee Minutes (Record of Proceedings) will be circulated after the meeting to the three Members of the Sub-Committee for them to approve as a true and correct record. Once approved, the Chairman's signature will be applied to the minutes.

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## Part []

### Council Bodies

#### Appendix: Personnel Committee

##### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Scope of Role

- 2.1 The Local Authorities (Standing Orders) (England) Regulations 2001, set out specific requirements in relation to the recruitment and appointment of the Head of Paid Service, Chief Officers and Deputy Chief Officers. These include a requirement to draw up job descriptions and person specifications.
- 2.2 The Council's recruitment and selection policy is set out in the Recruitment and Selection Policy, Procedure and Guidance document on the Council's intranet.

##### 3 Membership

- 3.1 The Committee shall consist of five Members reflecting the political balance of the Council.

##### 4 Terms of Reference

- 4.1 The principal functions of the Committee shall be to:
  - 4.1.1 appoint staff at Head of Service level or above by means of an Appointments Panel and to agree terms of reference for that Appointments Panel;
  - 4.1.2 agree and make necessary changes to the Council's Human Resources policies and procedures;
  - 4.1.3 designate an Officer as the Director of Adult Social Care and to designate an Officer as the Director of Children's Services;
  - 4.1.4 recommend Officers as Monitoring Officer and S151 Officer; and
  - 4.1.5 consider requests for the early release of pensions (the financial implications of which will need to be considered and approved by the Executive).

##### 5 Recruitment of Chief Executive, Executive Directors, Service Directors and Heads of Service

- 5.1 Where the Council proposes to appoint a Chief Executive, Executive Director or Service Director it will convene an Appointments Panel, which shall:
  - 5.1.1 in the case of the recruitment of a Chief Executive, consist of five Members;
  - 5.1.2 In the case of Executive or Service directors, consist of three Members;
  - 5.1.3 include at least one Executive Member;
  - 5.1.4 have regard to the political balance of the Council;

- 5.1.5 draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed;
- 5.1.6 make arrangements for the post to be suitably advertised.
- 5.2 Council must approve the appointment of the Chief Executive having regard to the recommendations of the Appointments Panel before an offer of employment is made to that person.
- 5.3 Council must approve the designation of an Officer as the S151 Officer or the Monitoring Office, having regard to the recommendations of the Appointments Panel.
- 5.4 Council may only make or approve the appointment of the Chief Executive where no well-founded objection has been made by any Member of the Executive.
- 5.5 Executive Directors or Service Directors will be appointed by the Appointments Panel.
- 5.6 An offer of employment as an Executive Director or a Service Director must not be made until:
  - 5.6.1 the Proper Officer has been advised of the name of the person to whom the offer is going to be made, and any other particulars relevant to the appointment;
  - 5.6.2 the Proper Officer has notified every Member of the Executive as to:
    - 5.6.2.1 the name of the person to whom the Appointments Panel wish to make the offer;
    - 5.6.2.2 any other particulars relevant to the appointment which the Appointments Panel has notified to the Proper Officer; and
    - 5.6.2.3 the period within which any objection to the making of the offer is to be made by the Executive Leader, on behalf of the Executive, to the Proper Officer; and either:
      - the Leader has, within the period specified in the Notice, notified the Appointments Panel that neither they nor any other Member of the Executive has any objection to the making of the offer; or
      - the Appointments Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

## 6 Dismissal of Chief Executive, S151 Officer, or Monitoring Officer

- 6.1 Where a Body is discharging, on behalf of the Council, the function of the dismissal of the Chief Executive, the S151 Officer, or the Monitoring Officer, the Council must approve that dismissal before notice is given to that person.
- 6.2 In this paragraph, "Dismissor" means, in relation to the dismissal of an Officer referred to in paragraph 6.1, the Council or Body as the case may be.
- 6.3 Notice of the dismissal of an Officer referred to above, must not be given by the Dismissor until:
  - 6.3.1 the Dismissor has notified the Proper Officer of the name of the person who the Dismissor wishes to dismiss, and any other particulars which the Dismissor considers are relevant to the dismissal;
  - 6.3.2 the Proper Officer has notified every Member of the Executive of:
    - 6.3.2.1 the name of the person to whom the Dismissor wishes to dismiss;
    - 6.3.2.2 any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
    - 6.3.2.3 the period within which any objection to the dismissal is to be made by the Leader, on behalf of the Executive, to the Proper Officer, and either:



- the Leader has, within the period specified in the Notice above, notified the Dismissor that neither they nor any other Member of the Executive has any objection to the dismissal;
- the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6.4 In the subsequent paragraphs –

- “Chief Finance Officer, “disciplinary action”, “Head of the Authority’s Paid Service” and “Monitoring Officer” have the same meaning as in Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- “Independent Person” means a person appointed under Section 28(7) of the 2011 Act;
- “the Panel” means a Committee appointed by the Council under Section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant Officers of the authority; and
- “Relevant Meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant Officer.

6.5 A Relevant Officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

6.6 The Council must invite Relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

6.7 In paragraph 6.6 “Relevant Independent Person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.

6.8 Subject to paragraph 6.9, the Council must appoint to the Panel such Relevant Independent Persons who have accepted an invitation issued in accordance with paragraph 6.6 in accordance with the following priority order:

6.8.1 a Relevant Independent Person who has been appointed by the Council and who is a local government elector;

6.8.2 any other Relevant Independent Person who has been appointed by the Council;

6.8.3 a Relevant Independent Person who has been appointed by another authority or authorities.

6.9 Not more than two Relevant Independent Persons shall be required to be appointed to the Panel

6.10 The Council must appoint the Panel at least 20 Working Days before the Relevant Meeting.

6.11 Before the taking of a vote at the Relevant Meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

6.11.1 any advice, views or recommendations of the Panel;

6.11.2 the conclusions of any investigation into the proposed dismissal; and

6.11.3 any representations from the relevant Officer.

6.12 Any remuneration, allowances or fees paid by the Council to a Relevant Independent Person appointed to the Panel must exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person’s role as Independent Person under the 2011 Act.

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## Part []

### Council Bodies

#### Appendix: Planning Committees

##### 1 Preamble

- 1.1 Part [] (Meeting Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Establishment

- 2.1 The Council is a Local Planning Authority ("LPA") and has established a District Planning Committee and two Area Planning Committees (the Eastern Area Planning Committee and the Western Area Planning Committee).
- 2.2 The Eastern Area Committee covers the following Wards:
  - Aldermaston;
  - Basildon;
  - Bradfield;
  - Bucklebury;
  - Burghfield and Mortimer;
  - Pangbourne;
  - Thatcham Central;
  - Thatcham Colthrop and Crookham;
  - Thatcham North East;
  - Thatcham West;
  - Theale;
  - Tilehurst Birch Copse;
  - Tilehurst South and Holybrook;
  - Tilehurst and Purley.
- 2.3 The Western Area Committee covers the following Wards:
  - Chieveley and Cold Ash;
  - Downlands;
  - Hungerford and Kintbury;
  - Lambourn;
  - Newbury Central;
  - Newbury Clay Hill;
  - Newbury Greenham;
  - Newbury Speen;

- Newbury Wash Common;
- Ridgeway.

### 3 Membership

- 3.1 Each Area Planning Committee shall consist of nine Members drawn from the Wards covered by the committee and reflecting the political balance of the Council.
- 3.2 Each Area Planning Committee shall also have Substitute Members drawn from the Wards covered by the committee, but to sit a Substitute Member must be a Member of the same political group as the Member they are substituting for.
- 3.3 The District Planning Committee shall consist of 11 Members reflecting the political balance of the Council - the Portfolio Member responsible for Planning plus five Members from each of the Area Planning Committees.
- 3.4 The District Planning Committee shall also have Substitute Members, but to sit a Substitute Member must be a Member of the same political group and of the same Area Planning Committee as the Member they are substituting for.
- 3.5 Before serving on any Planning Committee, each Committee Member or Substitute Member must receive such formal training (and refresher training) in the planning system as the Service Director with responsibility for Planning shall determine.

### 4 Scope of Role - Statutory

- 4.1 Section 101 of the Local Government Act 1972 allows an LPA to arrange for the discharge any of its functions by a committee, sub-committee, or an officer or by any other local authority.
- 4.2 All applications for planning permission and other Development Control issues (jointly “applications”) must be assessed in accordance with Section 38(6) of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990 as amended by Section 143 of the Localism Act 2011.

### 5 Scope of Role - Planning Principles

- 5.1 The general principle in planning is that where the Development Plan is up to date and relevant, planning applications should be determined in accordance with it unless material considerations indicate otherwise.
- 5.2 Any application contrary to the Development Plan must be advertised as such. If such an application is to be approved the material considerations leading to this conclusion must be clearly identified.

### 6 Scope of Role – Area Planning Committee

- 6.1 Each Area Planning Committee will consider applications where:
- 6.1.1 the application is referred to the committee for decision by:
- 6.1.1.1 the Service Director with responsibility for Planning or the Development Control Manager; or
- 6.1.1.2 the relevant Area Planning Committee Chairman;
- 6.1.2 the application is Called-In to the committee by a Member for the Ward to which the application relates, or a Member for a Ward adjoining the Ward to which the application relates, and that Member:
- 6.1.2.1 has first obtained the consent of the relevant Planning Committee Chairman (or Vice-Chairman in their absence) to the Call-In; and

- 6.1.2.2 has completed the required Call-In form and submitted it within any deadline set out in the form;
- 6.1.3 the application is recommended for approval and is by or on behalf of:
  - 6.1.3.1 the Council; or
  - 6.1.3.2 a member of staff of Planning; or
  - 6.1.3.3 a Councillor; or
  - 6.1.3.4 any applicant where the Council owns the land in question (or part of it);
- 6.1.4 the application is recommended for approval and:
  - 6.1.4.1 at least 10 letters of objection have been received; or
  - 6.1.4.2 a petition of objection has been received naming at least 20 signatories.

## 7 Scope of Role – District Planning Committee

- 7.1 The District Planning Committee will consider, on behalf of the Council, applications for planning permission and other Development Control issues where:
  - 7.1.1 an Area Planning Committee has referred the application to the District Planning Committee for determination following a majority vote;
  - 7.1.2 an Area Planning Committee has considered the application but the Service Director with responsibility for Planning or the Development Control Manager has determined that the decision:
    - 7.1.2.1 has a possible conflict with a policy that would undermine the Development Plan; or
    - 7.1.2.2 is of a district wide public interest; or
    - 7.1.2.3 there is a possibility for claims for significant costs against the Council.
- 7.2 Where a decision of an Area Planning Committee has been referred to the District Planning Committee as above, that decision shall not take effect until the District Planning Committee has considered it.

## 8 Site Visits

- 8.1 Site Visits are not to be used to debate the merits of the application, but rather to assess the impact of the proposed development on any locality.
- 8.2 A Site Visit is a formal meeting of the relevant committee and the same rules apply to chairing it as apply to a Meeting.
- 8.3 Site Visits should be by those Planning Committee Members able to attend, with Officer assistance. Others attending (Town or Parish Council representatives, applicant, supporters, objectors, etc) do so at the discretion of the Meeting Chairman and may express statements (factual and not of opinion) and ask questions but only at the direction of the Meeting Chairman.

## 9 Meeting Procedure – Registering to Speak

- 9.1 Members of the groups below may address the Committee during consideration of any application (but only provided that they have first registered to speak as set out below):
  - 9.1.1 Parish/Town Council representative(s);
  - 9.1.2 Adjoining Parish/Town Council representative(s);
  - 9.1.3 Objectors;

- 9.1.4 Supporters;
- 9.1.5 Applicant or their agent.
- 9.2 Apart from the applicant or their agent, applications to speak must be by persons or on behalf of bodies that have made written representations on an application as part of the consultation process.
- 9.3 The deadline to register to speak at a Meeting is 16:00 on the last working day before the Meeting. Requests must be made to the Planning Service in writing (preferably by email).
- 9.4 Those registering to speak must provide:
- the name of the person wishing to speak;
  - a contact telephone number;
  - the application they wish to speak on;
  - the capacity in which they are registering.
- 9.5 Persons registering to speak should also confirm if they are willing for the Council to share their contact details with other speakers so that arrangements can be made to nominate a spokesperson if necessary.

## 10 Meeting Procedure – Representations and Time Limits

- 10.1 In addition to those listed above, and further to the Meeting Rules of Procedure, the Ward Councillor(s) shall be entitled to speak on any application affecting their Ward.
- 10.2 Further, when the Committee considers an application affecting more than one Ward, the Chairman, with the agreement of the Committee, may allow additional speakers from the relevant Ward(s).
- 10.3 The total time allowed for speeches in respect of each of the groups of speakers shall not exceed five minutes or such longer period as the Meeting Chairman may allow with the consent of the Committee.
- 10.4 Where more than one person is entitled or has registered to speak in any of the groups of speakers, the five minute period shall be shared between them. In such circumstances, speakers are encouraged to appoint a spokesperson, but if no spokesperson is nominated, the speakers will be heard in the order in which they have registered until the five minute period has elapsed.
- 10.5 Where there is more than one Ward Councillor speaking:
- 10.5.1 where they each seek the same outcome, they will share a speaking time of five minutes;
- 10.5.2 where they seek a fundamentally different outcome, each speaker or group will be allowed five minutes each.
- 10.6 When there is a linked application (for example, in the case of linked applications for planning permission and listed building consent on the same property), they will generally be treated as one agenda item such that speakers may only speak once.
- 10.7 Any material (plans, photographs, documents, etc) that a speaker wishes to refer to must have been provided to Planning Officers at least five clear working days before the Meeting (Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002) and otherwise no such material may be produced or referred to at the Meeting.

## 11 Meeting Procedure – Order of Representations etc

- 11.1 The following procedure shall apply in respect of each item as relevant in the circumstances (but the Meeting Chairman may change the order at their discretion, or invite any representative to clarify a factual issue at any time):
- 11.1.1 introduction of item by Officers;
  - 11.1.2 representations by Parish/Town Council representative(s);
  - 11.1.3 Members' questions to Parish/Town Council representative(s);
  - 11.1.4 representations by Adjoining Parish/Town Council representative(s) (where agreed by the Meeting Chairman);
  - 11.1.5 Members' questions to Adjoining Parish/Town Council representative(s);
  - 11.1.6 representations by objector(s);
  - 11.1.7 Members' questions to objector(s);
  - 11.1.8 representations by supporter(s);
  - 11.1.9 Members' questions to supporter(s);
  - 11.1.10 representations by applicant or agent;
  - 11.1.11 Members' questions to applicant or agent;
  - 11.1.12 representations by Adjoining Ward Councillor(s);
  - 11.1.13 Members' questions to Adjoining Ward Councillor(s);
  - 11.1.14 representations by Ward Councillor(s);
  - 11.1.15 Members' questions to Ward Councillor(s);
  - 11.1.16 Members' questions to Officers.
- 11.2 Questions raised as part of the above process may only seek to clarify a statement made and not to introduce new business.

## 12 Meeting Procedure – Debate and Decision

- 12.1 Once all submissions and questions have been dealt with, Committee Members shall then debate the application.
- 12.2 For the avoidance of doubt, subject to the Members' Code of Conduct, Ward Councillors on Planning Committees may take part in the debate and/or vote on an application affecting their Ward.
- 12.3 At any stage of the debate, a Member of the Committee may propose that the Committee approve or refuse an application before it (a "Proposal"), and:
- 12.4 where the Proposal is for refusal, must provide clear reasons for a decision to refuse planning permission, particularly when the recommendation is contrary to the advice of Officers;
  - 12.5 where the Proposal is for approval, either:
    - 12.5.1 adopt Officers' suggested planning conditions ("Conditions") (where Officers have recommended approval); or
    - 12.5.2 propose Conditions with reasons (where Officers have recommended refusal); or
    - 12.5.3 suggest amendments to, or additional, Conditions with reasons (including removing such).
- 12.6 Any Proposal must be formally seconded to proceed.

- 12.7 At any stage of the debate any Committee Member (including the Proposer and Seconder) may:
  - 12.7.1 seek Officers' guidance as to the wording of a Proposal or Condition or a reason for refusal (or any other issue affecting the matter being considered);
  - 12.7.2 propose an amendment to a Proposal (eg adding a fresh Condition or a fresh reason for refusal) and, if the Proposer and Seconder agree, the Proposal shall be amended accordingly.
- 12.8 The making of a Proposal shall not necessarily halt debate – the Meeting Chairman shall decide when the debate has concluded and when a vote is to be taken.
- 12.9 Once the Meeting Chairman decides that the debate has concluded they will:
  - 12.9.1 seek a Proposal if none has yet been put; and
  - 12.9.2 put the Proposal to the vote; and
  - 12.9.3 if the Proposal is not carried, seek (an) alternative Proposal(s), such that the application before the meeting is determined.



## Part []

### Council Bodies

#### Appendix: Scrutiny Commission

##### 1 Preamble

- 1.1 Part [] (Council Bodies) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- 1.2 If there is any conflict between the wording of Part [] and this Appendix, this Appendix will prevail.

##### 2 Scope of Role

- 2.1 The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
- 2.2 The Council's Scrutiny Commission ("the Commission") will be, and will perform the functions of, its overview and scrutiny committee as required by that legislation.
- 2.3 The role of the Commission in relation to the development of the Council's Budget and Policy Framework is set out within Part [] (XXX).
- 2.4 The role of the Commission in relation to matters outside the development of the Council's Budget and Policy Framework is set out within this Appendix.

##### 3 Membership

- 3.1 The Commission shall be politically balanced and its membership will be as set out in the Bodies List and Meetings Rules Table.
- 3.2 No Executive Member may be a Member or Substitute Member of the Commission or any of its Sub Bodies.
- 3.3 No Commission Member may be involved in scrutinising a decision in which they have been directly involved. Any query about the meaning of "directly involved" will be decided by the Monitoring Officer.

##### 4 Terms of Reference

- 4.1 The Commission has the power to review or scrutinise decisions taken by the Executive or any other part of the Council (excluding decisions made by Council). It can make reports or recommendations to the Executive or to the Council. It can also make reports or recommendations on any matters that affect the District and Residents. Its role includes both developing and reviewing policy and holding the Executive to account for their decisions and actions.
- 4.2 Although the Commission may make recommendations for changes or improvements in the way that the Council or other bodies enact their business, it does not have any direct decision-making powers, except in the way that it discharges its own responsibilities.
- 4.3 The Commission is responsible for setting its own work programme and in doing so shall take into account the wishes of Councillors.
- 4.4 The Commission has responsibility for progressing and monitoring the overall objectives of the scrutiny function and the power to:

- 4.4.1 co-ordinate and develop the scrutiny function through which the decisions taken by the Executive, Bodies or Officers are scrutinised, and their use of resources/the provision of services are reviewed;
- 4.4.2 undertake pre-decision scrutiny of items on the Executive Forward Plan;
- 4.4.3 discharge the overview function in terms of policy development activities;
- 4.4.4 monitor decisions taken by or on behalf of the Executive;
- 4.4.5 monitor the activities of Directorates;
- 4.4.6 manage the Call-In process and recommend for reconsideration any decisions made but not yet implemented by on or behalf of the Executive, Leader, Executive Members or Officers under delegated powers;
- 4.4.7 consider requests from Councillors, Officers, residents and organisations for particular topics to be scrutinised and determine the appropriate action;
- 4.4.8 take responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies (excluding partnerships and external bodies that fall within the remit of the Health Scrutiny Committee);
- 4.4.9 undertake scrutiny reviews, as deemed appropriate.
- 4.5 The Commission shall coordinate with (but not direct the work of) the Council's Health Scrutiny Committee, established in accordance with the Health and Social Care Act 2012 and responsible for the scrutiny of health bodies as detailed in its Appendix.
- 4.6 It will be normal practice for the Health Scrutiny Committee Chairman to be a member of the Commission.
- 4.7 The Commission shall be the Council's Crime and Disorder Committee established in accordance with s.19, Police and Justice Act 2006 (which requires the Council to have a crime and disorder committee with power (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; and (b) to make reports or recommendations to the local authority with respect to the discharge of those functions).

## 5 Proceedings

- 5.1 The Commission shall respond, as soon as its work programme permits, to requests from the Council and Executive to undertake a piece of work on their behalf. Where the Commission does so, it shall report its findings and any recommendations back to the Executive or Council, which shall consider the report of the Commission at its first available Meeting unless the Monitoring Officer determines that it should be considered at a later Meeting.
- 5.2 Any Councillor shall be entitled to give notice to the Monitoring Officer that they wish an item relevant to the functions of the Commission or a Commission Sub Body to be included on the agenda for the next meeting, or referred to the Commission for inclusion in the approved work programme, and:
  - 5.2.1 in deciding whether to pursue the matter, the Commission shall consider representations from the Councillor who referred it;
  - 5.2.2 the Commission is not obliged to pursue such a matter but it must let the Councillor in question know the reasons for its decision;
  - 5.2.3 if the Commission pursues the matter it shall report its findings and any recommendations back to the Councillor who referred it.

- 5.3 Members of the public are entitled to suggest topics for scrutiny review. Suggestions can be submitted online or in writing (either by post or electronic mail) to the Monitoring Officer and must specify the name, address and contact telephone number of the member of the public (or representative) making the suggestion.
- 5.4 In order to be considered for the Commission's work programme topics must:
  - 5.4.1 relate to the business of the Council; or
  - 5.4.2 be a matter for which the Council has responsibility; or
  - 5.4.3 be related to the wellbeing of West Berkshire.
- 5.5 Submissions that do not meet the above criteria will be rejected by the Monitoring Officer.
- 5.6 The Chairman may reject an item if, in his opinion, it is not considered conducive to the Commission's Work Programme.
- 5.7 The member of the public will be notified as to whether their suggestion has been added to the Commission's Work Programme or has been rejected. The reasons for the rejection will be communicated to the individual.

## 6 Evidence - Documents

- 6.1 Commission and Commission Sub-Body Members have the right to access relevant documents as set out in Part [] (Access to Information Rules).
- 6.2 To facilitate effective scrutiny, more detailed liaison between the Executive and the Commission or a Commission Sub-Body may take place depending on the particular matter under consideration.
- 6.3 The Commission will be entitled to copies of any document which is in the possession or control of the Executive that relates to a matter under review and which contains material relating to:
  - 6.3.1 any business transacted at a meeting of the Executive or its Bodies; or
  - 6.3.2 any decision taken by an individual Member of the Executive; or
  - 6.3.3 any decision made by an Officer under the Executive arrangements
- 6.4 But the Commission will not be entitled to:
  - 6.4.1 any document that is in draft form;
  - 6.4.2 any part of a document that contains Exempt or Confidential Information, unless:
    - 6.4.3 that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
      - 6.4.3.1 the Monitoring Officer decides that it is appropriate for such Exempt or Confidential Information to be provided (in which event Commission Members shall respect the confidentiality of the information); or
      - 6.4.3.2 the advice of a political adviser or Group Executive that would be exempt under a Freedom of Information Act request.

## 7 Evidence – Testimony

- 7.1 The Commission or a Commission Sub-Body may require the attendance of the relevant Executive Member, or Officer at the level of Head of Service or above, to attend a meeting in order to provide advice and evidence in pursuit of a review being undertaken.
- 7.2 The Commission or a Commission Sub-Body may invite other persons relevant to an item of business or matter under review to address it and/or answer questions on a voluntary basis.

- 7.3 The Commission may consider evidence in open or confidential session as the Chairman thinks appropriate following advice from the Monitoring Officer.
- 7.4 Where the Commission or a Commission Sub-Body conducts a scrutiny review, the Commission will ask people to attend to give evidence at meetings which will be conducted in accordance with the following principles:
- 7.4.1 that the meeting is conducted fairly and all Members of the Commission or the Commission Sub-Body are given an opportunity to ask questions of attendees and speak;
- 7.4.2 that those assisting the Commission by giving evidence are treated with respect and courtesy; and
- 7.4.3 that the meeting is conducted so as to maximise the efficiency of the review.
- 7.5 Where a petition to Hold an Officer to Account is referred to the Commission under the Council's Meeting Rules:
- 7.5.1 it will be reported to the next convenient meeting of the Commission unless the matter is deemed urgent, in which case an extraordinary meeting may be convened;
- 7.5.2 in advance of the Commission meeting, the Petition Organiser will be invited to submit a list of questions they would like to put to the Officer at the meeting, and:
- 7.5.2.1 the questions will be provided to the Chairman and Vice Chairman of the Commission, who will decide whether they are appropriate, and
- 7.5.2.2 (if they are deemed appropriate) they will be provided to the Officer concerned in advance of the meeting.
- 7.5.3 the Officer named in the petition and any other relevant Officers will be required to attend the Commission;
- 7.5.4 the Officer will be provided with the petition and any questions submitted by the petition organiser;
- 7.6 Where any Member or Officer is required or requested to attend the Commission or a Commission Sub-Body under this provision:
- 7.6.1 the Chairman of the Commission will inform the Monitoring Officer;
- 7.6.2 the Monitoring Officer shall inform the Member or Officer in writing giving at least five Clear Working Days' notice of the meeting at which they are required to attend;
- 7.6.3 the notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Commission or Commission Sub-Body; and
- 7.6.4 where the account to be given to the Commission or Commission Sub-Body will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that documentation.
- 7.7 Where Officers below the level of Head of Service attend the Commission or a sub-Body, they will usually be accompanied by a senior manager.
- 7.8 At the meeting of the Commission, the Chairman will invite the Petition Organiser to address the Commission for a maximum of five minutes on the issue. The relevant Officer will then be asked to respond to the Commission on the subject matter of the petition. The Commission may question the Officer and the Chairman may invite questions from the Petition Organiser to be put to the Officer through the Chairman.

## 8 Reports

- 8.1 Following any review, the scrutinising body shall prepare a draft report, with recommendations as appropriate, for publication and submission to the Commission. The Commission will agree or amend the report and direct it to the Monitoring Officer. In cases where the Scrutiny Commission is the scrutinising body, the agreed report will be directed to the Monitoring Officer. The Monitoring Officer will then refer the report, via the Chief Executive and S151 Officer, to check for factual errors and consideration of any financial implications, to:
- 8.1.1 the Council (if the recommendations would require a departure from, or a change to, the agreed Budget or Policy Framework);
- 8.1.2 the Executive (if the proposals are consistent with the Budget and Policy Framework) or other Body as they deem appropriate for a formal response to the report's recommendations.
- 8.2 Reports with implications for outside bodies shall be passed to the appropriate person at those outside bodies.
- 8.3 The body receiving the report will be requested to consider and respond within eight weeks of it being submitted to the Monitoring Officer, or such longer timescale as the Chairman of the Body may agree.
- 8.4 The response to a recommendation from a decision-maker should consist of:
- a clear commitment to delivering the measure within a timescale set out;
  - a commitment to be held to account on that delivery;
  - where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.
- 8.5 It is the Commission's responsibility to monitor and evaluate recommendations once they are implemented.

## 9 Minority Report

- 9.1 If the Commission or a Commission Sub-Body cannot agree on one single report to the Executive or to Council or to a named external organisation as appropriate, then up to one minority report may be prepared and submitted for consideration with the majority report.

## 10 Report to Council – Key Decision

- 10.1 The Scrutiny Commission can require a report if it thinks that a Key Decision has been taken which was not:
- 10.1.1 treated as being a Key Decision; or
- 10.1.2 included in the Forward Plan; or
- 10.1.3 the subject of the general exception procedure; or
- 10.1.4 the subject of an agreement with the Scrutiny Commission Chairman, or the Chairman/Vice-Chairman of the Council.
- 10.2 The Scrutiny Commission may then require the Executive to submit a report to the Council within such reasonable time as the Scrutiny Commission specifies. The power to require a report rests with the Commission, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Scrutiny Commission when so requested by the Chairman or any five Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Commission.

## 11 Decisions of the Executive

- 11.1 The Monitoring Officer shall publish all decisions taken by the Executive, Individual Executive Members or Officers under delegated powers to all Members of Council normally within three Clear Working Days of the decision, but generally by 17:00 on the day after the meeting.
- 11.2 Where a decision taken is one to which the Call-In procedure does not apply (see below), the reasons shall be stated in the notice of decision.

## 12 Non-Implementation of Decisions pending possible Call-In

- 12.1 Except where the Call-In procedure does not apply (see above and below), Executive decisions shall not be capable of implementation until either:
- 12.1.1 the time for a Call-In request has expired without such a request being made; or
- 12.1.2 the Call-In procedure in the following rules has been followed.

## 13 Call-In – Application and Process

- 13.1 By 17:00 on the fifth Clear Working Day following the publication of the decision, any five Councillors (excluding any Councillor involved in making the original decision) may give notice in writing to the Monitoring Officer requesting that the decision be Called-In to be reviewed by the Commission.
- 13.2 The Call-In notice shall give reasons for the request together with a proposal for an alternative course of action and stating whether or not those Councillors believe that the decision is contrary to the Budget and Policy Framework or contrary to or not wholly in accordance with the budget.
- 13.3 The Call-In procedure shall not apply if any of the following applies:
- 13.3.1 the item is due to be referred to Council for final approval (eg the budget);
- 13.3.2 the S.151 Officer or Monitoring Officer has certified that if there were a delay in implementing the decision it could have serious financial implications for the Council or could compromise the Council's position;
- 13.3.3 the item has been considered by the Commission, or has been the subject of a review undertaken by another Body, within the preceding six months;
- 13.3.4 the item in question was a report that did not require a decision and was for information only;
- 13.3.5 the item is classed as an Urgent Key Decision.
- 13.4 In the event of a dispute over whether a decision is capable of Call-In or not, a decision of the Monitoring Officer or S.151 Officer (as the case may be) shall be final.

## 14 Call-In - Review

- 14.1 There are three options available to the Commission when considering a Call-In:
- 14.1.1 to let the decision stand;
- 14.1.2 to state its views on the matter and refer the decision back to the decision maker;
- 14.1.3 to refer the decision to Council if the Commission considers that the decision is contrary to the Budget and Policy Framework.

## 15 Call-In - Procedure

- 15.1 When a notice requesting that a decision be reviewed is made, the Monitoring Officer shall inform the Leader and the Commission Chairman and shall, in consultation with the Chairman, convene a special meeting of the Commission as soon as reasonably practicable for the purpose of reviewing the decision, unless the matter can conveniently be reviewed at the next scheduled meeting of the Commission.
- 15.2 If a notice requesting that a decision be reviewed states that the reason for it being called in is that the decision is outside the Budget or Policy Framework it will be referred to the Monitoring Officer and S.151 Officer who shall decide if this is the case.

## 16 Review of Decision

- 16.1 Any Councillor who has signed a notice requesting that a decision be reviewed may attend the meeting of the Commission when the decision is reviewed and may speak to that item of business.
- 16.2 The Commission may not overturn the decision which it is reviewing but may either concur with the decision (in which case it will take immediate effect) or refer it back to the next scheduled or an Extraordinary Meeting of the Executive for further consideration.
- 16.3 If the Commission is of the opinion, having taken advice from the Council's Monitoring Officer and S.151 Officer, that a decision is outside the Budget and Policy Framework approved by the Council, the Commission may refer the decision to the Council.
- 16.4 In the case of a Called-In decision being referred to Council:
  - 16.4.1 if Council decides that the Called-In decision was contrary to the Budget and Policy Framework it shall decide on the issue in question;
  - 16.4.2 if the Council decides that the Called-In decision was not contrary to the Budget and Policy Framework then no further action is necessary and the decision will take effect on the date of the Council meeting.

## 17 Referral Back to Executive

- 17.1 The Commission will produce a report with its findings to the next meeting of the Executive (ie the meeting following the Call-In request) unless there are exceptional circumstances why this cannot be achieved. In these circumstances the Chairman of the Commission and the Leader of the Council will agree a revised timetable.
- 17.2 The report will either confirm the original decision or propose amendments to it in any way it thinks fit and shall give reasons for its final decision.
- 17.3 If the Commission upholds the Executive decision, the original decision of the Executive shall take immediate effect.
- 17.4 If the Commission does not uphold the Executive decision, it is for the Executive to decide how it wishes to proceed (provided the decision is within the Budget and Policy Framework) having had regard to the recommendations of the Commission.
- 17.5 Any matter which has been the subject of a Call-In request may not be the subject of a further Call-In request.

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