

CABINET - 6 SEPTEMBER 2001

## AMENDMENTS TO COUNCIL'S CONSTITUTION

### 1. INTRODUCTION

- 1.1 This report brings together a number of proposed technical amendments to the Council's Constitution, in the light of:

up-dated legislation and government guidance;

an exercise to identify ways of improving the Constitution's format;

the Leader's suggestion that the current Housing Portfolio is split.

- 1.2 A members' seminar has been arranged on 3 October 2001 at 6.30 pm to assist members in their understanding of the roles of Review Panels, the Executive and full Council, and to identify the scope for further changes to the Constitution in the light of experience to date in operating the new democratic structures. Any proposals for amendments arising out of that seminar will be progressed.

### 2. THE SCHEDULES TO THE CONSTITUTION

- 2.1 Users of the Constitution have remarked that it can be difficult to identify the particular Schedule to which they wish to refer, as Schedules have been added piecemeal since the Constitution was first drafted and therefore do not necessarily follow a logical order.

- 2.2 It is therefore proposed to re-order the Schedules to the Constitution into what it is hoped is a more logical order. The Schedules have been separated out into five main sections as follows (see Appendix 1 to this report).

#

Section 1 - The Executive, its functions and processes

Section 2 - Overview and Scrutiny

Section 3 - Non-Executive functions

Section 4 - Relationship between the executive and non-executive in Policy and Budget Setting, Best Value, and Disputes between Council and Cabinet

Section 5 - Procedural and Working Documents and Codes of Conduct

Within those sections, the Schedules have been renamed as "Chapters".

- 2.3 For reasons of economy and convenience, the entire constitution with all its Chapters is not reproduced in this report. Instead, Appendix 1 lists the proposed new Chapter numbers, alongside the existing Schedule numbers. It is not proposed to amend the text of the Chapters, except where described below in this report.

2.4 **RECOMMENDED:**

***That the Schedules to the Constitution be re-ordered and re-numbered as set out in Appendix 1 to this report.***

3. **THE MAIN CONSTITUTION DOCUMENT**

3.1 This currently runs to 15 pages, and, again, users have remarked that it is not always easy to find the particular paragraph(s) to which they wish to refer.

3.2 In an attempt to improve its user-friendliness, the following exercises have been undertaken:

3.2.1 Where information is duplicated between the main document and one of its attached Schedules (Chapters), the information has generally been removed from the main document, and replaced with a cross-reference to the appropriate Schedule (Chapter). In particular, a great deal of duplication between the main Constitution and Standing Orders for Meetings has now been eliminated, with all the information that members or officers may need to refer to during a meeting being transferred to Standing Orders.

3.2.2 The order of the document has been amended to make it more logical, and, so far as possible, to follow the new order of the Chapters referred to above.

3.2.3 Some re-wording has taken place in the interests of clarity, without changing the meaning (except where indicated as explained in paragraph 3.3 below).

3.2.4 An index to the main constitution document has been prepared.

3.3 The proposed new Constitution document is attached at Appendix 3. For members' information, attached at Appendix 2 is the Constitution laid out in its existing order, with text proposed for deletion shown as struck through, and replacement text shown in bold italics. Reasons for the amendments are shown throughout Appendix 2 in underlined italics. Appendix 3 is therefore simply a re-ordered version of Appendix 2, with some re-wording in the interests of clarity, but no change to the meaning of the Appendix 2 version except where explanations are shown in Appendix 2.

3.4 **RECOMMENDED:**

***That the existing main Constitution document be replaced by the new document attached at Appendix 3 to this report.***

#### 4. SPLIT OF THE HOUSING PORTFOLIO

The Leader has suggested removing responsibility for health and social exclusion from the existing Housing Portfolio, and transferring it to the (current) Portfolio Holder without specific responsibility. The Portfolio Holder without specific responsibility would then become the Portfolio Holder for Health and Social Exclusion. Chapters 4 and 5 of the Constitution (formerly Schedules 2 and 4) would require amendment.

##### 4.1 **RECOMMENDED:**

***That the transfer of health and social exclusion from the Housing Portfolio to the (current) Portfolio without specific responsibility, and the consequent amendments to the scheme of delegations to Portfolio Holders and the Roles of Portfolio Holders, as shown in Appendix 4 to this report, be approved.***

#### 5. EXECUTIVE AND NON-EXECUTIVE FUNCTIONS - TERMS AND CONDITIONS OF EMPLOYMENT

- 5.1 Amendments to the Local Authorities (Functions and Responsibilities) Regulations that came into effect in July 2001 now prescribe that the power to determine the terms and conditions on which employees hold office is not to be a function of the executive. (Previously, the regulations had been worded in such a way that terms and conditions of employment generally were a matter for the executive, and only the appointment and dismissal of individual members of staff were not a function of the executive).
- 5.2 As responsibility for terms and conditions of employment is not to be an executive function, it is proposed to assign responsibility for advising Council on these matters to the General Purposes and Licensing Committee.
- 5.3 The Industrial Relations Committee's (IRC) current terms of reference provide that it is an advisory body to Cabinet. Under the new regulations, a large part of the business that the IRC consider will be a matter for the General Purposes and Licensing Committee rather than the Cabinet. In these circumstances, it is no longer appropriate for the IRC to act exclusively as an advisory body to the Cabinet. However, from time to time it may wish to consider matters that remain an executive function. Further, the Standards Committee is responsible for matters relating to observance by officers of Codes of Conduct, and there may be occasions when the IRC will wish to consider such matters.
- 5.4 It is therefore proposed that the IRC should continue to act as an advisory body on the same issues as currently, but that its terms of reference should be amended to enable its advice to be given to either the Cabinet, the General Purposes and Licensing Committee, or the Standards Committee, depending on the subject matter.

5.5 Proposed amended terms of reference for the General Purposes and Licensing  
# Committee, and the Industrial Relations Committee, are attached at Appendix 5  
to this report (shown in bold italics). It is not envisaged that the changes to the  
IRC's terms of reference will affect the way in which that Committee operates. It  
will simply report on different matters to different bodies, depending on which  
body is responsible for the particular function at issue.

5.6 **RECOMMENDED:**

***That the amendments to the terms of reference of the General Purposes  
and Licensing Committee and the Industrial Relations Committee, as  
shown in Appendix 5 to this report, be approved.***

## 6. OTHER TECHNICAL AMENDMENTS TO INDIVIDUAL CHAPTERS OF THE CONSTITUTION

6.1 These are shown in further Appendices to this report as follows. In all cases  
(apart from paragraphs 6.10 and 6.11 where explanation is included in the body  
of the report) existing text proposed for deletion is shown struck through,  
replacement text is shown in bold italics, and the explanation for the changes is  
shown in underlined italics in the Appendices.

### 6.2 Cabinet's Terms of Reference

**RECOMMENDED:**

# ***That the amendments to the Cabinet's terms of reference, as shown  
in Appendix 6 to this report, be approved.***

### 6.3 Scheme of Delegations from Council to Committees etc

**RECOMMENDED:**

# ***That the amendments to the scheme of delegations to Committees  
and Panels, as shown in Appendix 7 to this report, be approved.***

### 6.4 Procedures for Executive Decision Making

**RECOMMENDED:**

# ***That the amendments to the procedures for executive decision  
making, as shown in Appendix 8 to this report, be approved.***

**6.5 Procedures for Making Urgent Decisions Outside Policy or Budget, or Urgent Key Decisions**

***RECOMMENDED:***

**# *That the amendments to the procedures for making urgent decisions outside policy or budget and urgent key decisions, as shown in Appendix 9 to this report, be approved.***

**6.6 Responsibilities of Portfolio Holders**

***RECOMMENDED:***

**# *That the amendment to the general personal responsibilities of Portfolio Holders, as shown in Appendix 10 to this report, be approved in relation to all Portfolio Holders.***

**6.7 Review Panels' Terms of Reference**

***RECOMMENDED:***

**# *That the amendments to the Review Panels' terms of reference, as shown in Appendix 11 to this report, be approved.***

**6.8 Appeals Committee's Terms of Reference**

***RECOMMENDED:***

**# *That the amendments to the Appeals Committee's terms of reference, as shown in Appendix 12 to this report, be approved.***

**6.9 Review Panels Operational Rights and Rights of Access to Information**

***RECOMMENDED:***

***That the amendments to the Review Panels Operational Rights and Rights of Access to Information, as shown in Appendix 13 to this report, be approved.***

**6.10 Standing Orders for Meetings**

Many of the proposed amendments result from the "stream-lining" of the main Constitution document, as explained in paragraph 3.2.1 above.

(An Index to Standing Orders for meetings is also being prepared, and will be distributed with the amended Standing Orders).

**RECOMMENDED:**

# ***That the amendments to Standing Orders for Meetings, as shown in Appendix 14 to this report, be approved.***

**6.11 Call In Procedures for Executive Decisions**

# This Chapter (formerly Schedule 9) has been re-written and re-ordered. The proposed new version is attached at Appendix 15. Many of the changes are simply to remove text that is duplicated elsewhere in the Constitution, make the meaning clearer, or to set out the procedures in a more logical way. However, there have been several additions to the provisions to cover situations the previous version did not cater for. Changes of substance are listed below:

- a. The proposed new version clarifies that call in cannot apply to recommendations to Council, and why. This was implicit, but never explicitly stated, in the previous version. (Paragraph 1.2)
- b. Requirements for the content of the decision notice issued when an executive decision has been made have been clarified and expanded. (Paragraphs 2.2 to 2.4)
- c. New text caters for the situation where there is more than one "appropriate Panel", and gives responsibility (previously unassigned) for deciding which Panel(s) is/are "appropriate" to the Monitoring Officer. (Paragraphs 2.4.a, 4.2 (opening words) and 4.2.c)
- d. New text includes the options open to a Panel when it reviews a decision that has only been called in by a single member (consistent with the provisions on reactive reviews in Schedule 17). (Paragraph 5.1)
- e. The procedure clarifies that if a Panel is not satisfied with an Executive decision and notifies the Executive accordingly, the decision maker must reconsider the decision as soon as reasonably practicable. (paragraph 5.2.b)
- f. To avoid confusion, details of the circumstances in which an urgent decision may be implemented despite being called in is now specifically included in this Chapter, rather than mentioned only as a cross-reference to other parts of the Constitution. (paragraph 7.1). If a decision has to be implemented for reasons of urgency part way through a scrutiny process, the options open to the Panel that was reviewing it are stated.

**RECOMMENDED:**

***That the revised procedures for calling in Executive decisions, as attached at Appendix 15 to this report, be approved.***

**6.12 Best Value**

This Chapter has been re-written to reflect agreed new processes.

**RECOMMENDED:**

**# *That the revised procedures for Best Value, as shown in Appendix 16 to this report, be approved***

**7. PROPER OFFICER APPOINTMENTS - ACCESS TO INFORMATION**

7.1 The Council's existing Proper Officer appointments concerning access to information relate to the Local Government Act 1972. These appointments remain valid for the purpose of non-executive functions of the full Council and Committees. However, access to information provisions for executive functions are contained in the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000. Many of these provisions are the same as the corresponding provisions in the 1972 Act for non-executive functions, and similar Proper Office appointments are therefore required under the Regulations.

7.2 Regulations 6 and 9(4) relate to lists of background papers to reports and their availability, hence the extensive list of Proper Officers proposed. (This list is the same as the 1972 Act Proper Officer appointments for background papers relating to reports on non-executive functions). The remainder of the Regulations relates to recording decisions, ensuring various documents are publicly available, deciding which reports are exempt from publication and other action regarding publicity for decisions. As is the case with non-executive functions, it is proposed that responsibility for these should be assigned to the Chief Executive and Monitoring Officer.

**7.3 RECOMMENDED:**

**# *That the Proper Officer appointments attached at Appendix 17 to this report be approved.***

**8. HOUSING REVIEW PANEL**

8.1 # An extract from the minutes of the Panel is attached at Appendix 18.

**8.2 RECOMMENDED:**

*That the Housing Review Panel be re-named "Housing, Health and Social Exclusion Review Panel", and that any changes to the Constitution necessary as a consequence be made.*

**9. FINANCIAL, ENVIRONMENTAL AND CRIME AND DISORDER IMPLICATIONS**

9.1 None arising directly from this report.

**10. CONCLUSION**

10.1 The Constitution is a constantly evolving document that needs to be kept under regular review in the light of legislation and Government guidance, and this Council's experience of operating it. This report deals with technical amendments the need for which has been identified over the past few months. It is likely that further technical amendments will be needed in due course, for example when the promised Government guidance is received on when expenditure or savings should be regarded as "significant" for the purpose of determining whether a decision is a "key decision". It is also possible that further changes will be proposed as a result of the members' seminar arranged for 3 October 2001.

**11. RECOMMENDATIONS**

11.1 These are set out in the report under each heading. Members are asked to support the individual recommendations at paragraphs 2.4, 3.4, 4.1, 5.6, 6.2 to 6.12 inclusive, 7.3 and 8.2 above, for consideration by Council.

**For further information please contact**

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**ORGANISATION OF SECTIONS AND CHAPTERS**

The Constitution consists of a main or covering Constitution document and numerous Chapters. The are divided into the following five Sections.

SECTION 1 (Chapters 1 to 8) relates to the Executive, its functions and decision-making processes.

SECTION 2 (Chapters 9 to 11) relates to the Review and Scrutiny function.

SECTION 3 (Chapters 12 to 18) relates to the non-executive functions of the full Council and its Committees.

SECTION 4 (Chapters 19 to 21) relates to the relationship between the Executive and non-Executive arms of the Council in setting policy and the budget, best value, and disputes between the Executive and the Council.

SECTION 5 contains procedural provisions, codes, and other formal documents that have been approved by full Council and to which members and officers must adhere.

A list of Chapter numbers is set out below:

<b>(New) Chapter Number</b>	<b>Title</b>	<b>(Old) Schedule Number</b>
SECTION 1 - Chapter 1	Terms of Reference of Cabinet	1 (including both Annexes)
SECTION 1 - Chapter 2	Role of the Leader of the Council	3 (including Annex 1)
SECTION 1 - Chapter 3	Procedure for Removing and Replacing the Leader	Annex 2 to Schedule 3
SECTION 1 - Chapter 4	Role of Portfolio Holders	4 (including 8 Annexes)
SECTION 1 - Chapter 5	Scheme of Delegations to Portfolio Holders	2 (excluding parts on delegations to Committees and delegations to officers)
SECTION 1 - Chapter 6	Procedure for Executive Decision Making	7
SECTION 1 - Chapter 7	Procedure for making Urgent Decisions outside Policy or Budget, or Urgent Key Decisions	8
SECTION 1 - Chapter 8	Procedures for Calling in Executive Decisions	9
SECTION 2 - Chapter 9	Terms of Reference of Review Panels	15
SECTION 2 - Chapter 10	Review Panels' Operational Rights and Rights of Access to Information	17

<b>(New) Chapter Number</b>	<b>Title</b>	<b>(Old) Schedule Number</b>
SECTION 2 - Chapter 11	Role of Review Panel Chairmen	16
SECTION 3 - Chapter 12	Scheme of Delegations from Council to Committees	2 (excluding parts on delegations to Portfolio Holders and officers)
SECTION 3 - Chapter 13	Terms of Reference of Committees	19 (including Annexes)
SECTION 3 - Chapter 14	Role of Committee Chairmen	20 (including Annexes)
SECTION 3 - Chapter 15	Role of the Chairman of the Council	12
SECTION 3 - Chapter 16	Role of the Vice-Chairman of the Council	13
SECTION 3 - Chapter 17	Non-Executive Role of all Members	18
SECTION 3 - Chapter 18	Role of Opposition Group Leaders	22
SECTION 4 - Chapter 19	Setting Strategic Plans, Policy and the Budget	5
SECTION 4 - Chapter 20	Best Value	6
SECTION 4 - Chapter 21	Resolving Disputes between Cabinet and Council	10
SECTION 5 - Chapter 22	Statement of Partnership with Town and Parish Councils	11
SECTION 5 - Chapter 23	Standing Orders for Meetings	21
SECTION 5 - Chapter 24	Procedures for Public Participation at Meetings	38
SECTION 5 - Chapter 25	Financial Regulations	23
SECTION 5 - Chapter 26	Standing Orders for Contracts	24
SECTION 5 - Chapter 27	Standing Orders for General Procedures	25
SECTION 5 - Chapter 28	Procedures for Appointing and Dismissing Employees (not Chief Executive or Chief Officers)	26
SECTION 5 - Chapter 29	Members' Allowances Scheme	27
SECTION 5 - Chapter 30	Code of Conduct for Member/Officer Relations	14
SECTION 5 - Chapter 31	Tenant Consultation Arrangements	37
SECTION 5 - Chapter 32	National Code of Conduct	29

<b>(New) Chapter Number</b>	<b>Title</b>	<b>(Old) Schedule Number</b>
SECTION 5 - Chapter 33	Local Code of Conduct for Members and Officers dealing with planning Matters	30
SECTION 5 - Chapter 34	Code of Conduct for Housing Stock Transfer Review	31
SECTION 5 - Chapter 35	Code of Conduct for Employees	28
SECTION 5 - Chapter 36	Policy Statement on Access to Information	32
SECTION 5 - Chapter 37	Indemnity of Members and Officers	33
SECTION 5 - Chapter 38	Information and Communications Technology Security	34 (including 6 Annexes)
SECTION 5 - Chapter 39	Fraud, Corruption and Probity - Managers' Guide	35
SECTION 5 - Chapter 40	Fraud, Corruption and Probity -Employees' Guide	36

## NEW FOREST DISTRICT COUNCIL CONSTITUTION

1. This Constitution was adopted by New Forest District Council on 23 April 2001 and shall come into effect on 1 August 2001.
2. Unless anything in this Constitution, or the Schedules to it, provides otherwise, the Council may only amend this Constitution on a recommendation from the Cabinet. Before the Cabinet makes such a recommendation, it shall consult the Review Panels and Committees that will be affected by the amendments. **All amendments shall comply with the requirements of the Local Government Act 2000 and regulations thereunder. If the Constitution is found not to comply, the Chief Executive and the Monitoring Officer can take all necessary steps to ensure compliance without recourse to full Council, Cabinet or Panels.**

Amalgamates existing paragraphs 2, 4.21 and 6.1(iii)

### 3. INTERPRETATION

3.1 For the purposes of this Constitution, the following definitions, except where otherwise stated, shall apply:-

- Budgets – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax, all the components of the budget, such as budgetary allocations to different services and projects, proposed taxation levels, contingency funds (reserves and balances), and any plan or strategy for the control of the Council's borrowing or capital expenditure.
- Cabinet – means the formal body within the Council defined as the Executive under the Local Government Act 2000.
- Chief Executive – The Head of the Council's Paid Service under Section 4 of the Local Government Housing Act 1989.
- Chief Finance Officer – means the Officer appointed by the Council under Section 151 of the Local Government Act 1972 with responsibility for the proper administration of the Council's Officers.
- Committees – means the Standards Committee, the Planning Development Control Committee, the General Purposes and Licensing Committee, the Appeals Committee and any other Committees comprising of only Councillors as voting Members established by the Council to undertake any of its functions.
- Council – means the Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972.
- **Forward plan means a monthly plan containing particulars of matters on which key decisions are likely to be made, as prescribed in the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000**

Included as Constitution now makes reference to the forward plan

- Key decision - means a decision which is likely either:
  - i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - ii) to result in an outcome which will have an impact, for better or worse, on a significant number of people living or working in an area comprising two or more wards in the Council's area;

or which, in the opinion of the decision-maker, is likely to be significant in terms of its effect on communities in a ward.

In determining whether i) above applies, expenditure or savings shall always be treated as significant if the sum exceeds £50,000, or 25% of the gross budget for the service, whichever is greater.

- Leader – The Councillor appointed by the Council to be its principal political leader.
- Monitoring Officer – means the Officer appointed under Section 5 of the Local Government and Housing Act 1989.
- Panel – means Review Panels.
- Portfolio Holder – means the Councillor responsible for a specific Portfolio.
- Portfolios – means activities which are the responsibilities of a single Member.
- Strategic Plans – means the Council's corporate plan, ~~forward plan,~~ best value performance plan, ~~community plan~~ **strategy, community safety strategy, Local Plan,** and such other similar **plans or strategies** ~~documents and policies~~ as the Council may determine ~~should be prepared.~~

*Amended to follow legislative provisions on content of strategic plans that are reserved for approval by full Council.*

#### 4. PART I – EXECUTIVE ARRANGEMENTS

##### 4.1 Form of Executive

The Executive shall be in the form of a Leader with a Cabinet as provided in Section 11(3) of the Local Government Act 2000.

##### 4.2 Constitution and Terms of Reference of Cabinet

###### (i) Membership

The Cabinet shall comprise 8 members, including the Leader of the Council. ***The Council may amend the number of members, as provided in Standing Orders for Meetings, provided the number remains within the limits laid down by legislation.***

Expanded for clarity

(ii) Terms of Reference

Except where otherwise provided in legislation or this Constitution the Cabinet shall be responsible for all functions of, and matters affecting the Council. Such duties are more particularly described in Schedule 1 to this Constitution and with respect to those functions referred to in Regulations 3 & 4 of the Local Authorities (Functions and Responsibilities) Regulations 2000, in Annexes 1 and 2 to that Schedule.

Above reworded for clarity in new Constitution document - meaning unchanged

~~(iii) Meetings~~

- ~~a) The Cabinet shall meet at least 12 times in each year.~~
- ~~b) The Chief Executive shall have responsibility for calling all Cabinet meetings in accordance with the provisions contained within the Council's Standing Orders as to meetings attached as Schedule 15 hereto.~~
- ~~c) Meetings of the Cabinet, its Committees and Sub-Committees, shall be held in public except when confidential or exempt information within the meaning of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 is being considered.~~

All above in Standing Orders

(iv) Scheme of Delegation

- a) The scheme of delegation at Schedule 2 shall apply to all functions of the Council.

When this sentence was drafted there were 2 parts to Schedule 2. There are now three, and they have been separated out into three separate chapters. This sentence now relates to the Council's scheme of delegations to Committees, so has been moved to the "non-executive" part of the Constitution.

**The scheme of delegations to Portfolio Holders is set out in Chapter 5 of this Constitution.**

Scheme has been adopted since the Constitution was drafted

**The Cabinet shall be empowered to delegate any of its functions to officers of the Council, subject to compliance with any provisions in legislation and the Schedules in this Constitution.**

Delegations by Committees covered in similar words in section 6

- b) It shall be the responsibility of the Chief Executive to ensure that a comprehensive Register of specific powers delegated to individual councillors and employees is maintained at all times. The Register of Delegations shall be deposited at the office of the Chief Executive and be available for public inspection during office hours.

**4.3 Leader**

The Leader of the Council shall be the principal political leader in all respects. The duties and responsibilities assigned to the Leader shall be as described in Schedule 3 of this Constitution.

**4.4 Cabinet – Appointments**

(i) Leader

- a) The Leader of the Council shall be appointed by the Council ~~at the Annual meeting of the Council in each year in accordance with~~ **under the procedures in** the Standing Orders for Meetings attached as Schedule 21 to this Constitution. The Leader of the Council shall be eligible for re-election.
- b) ~~Notwithstanding the provisions of paragraph 4.4 (i) (a) above,~~ the Council may ~~at any time~~ terminate the appointment of the Leader **under the provisions in Annex 2 to Schedule 3 of this Constitution**, provided that no proposal to terminate such appointment shall be made solely for the purpose of resolving a single dispute under paragraph 4.14 of this Constitution.

*Standing Orders specify appointment at Annual Meeting - no need to repeat. Formal procedure for terminating Leader's appointment has been adopted since this paragraph was drafted.*

(ii) Cabinet

- ~~a) At the Annual Meeting of the Council in May each year, the Council shall determine the Portfolios of Members of the Cabinet.~~
- b) The duties and responsibilities applicable to Members of the Cabinet shall be in accordance with Schedule 4 and the Annexes thereto.
- ~~c) Within five working days of the Annual Meeting the Leader of the Council shall notify the Chief Executive of the Councillors appointed to the Cabinet and their respective Portfolios.~~



~~d) Within five working days of the Annual Meeting, the Leader of the Council shall appoint a Deputy Leader from amongst the Members of the Cabinet and shall immediately notify the Chief Executive of such appointment~~

**b) The procedure for:**

- i) deciding the content of Portfolios,**
- ii) appointing, and terminating the appointment of, Cabinet members, and**
- iii) deciding the duties and responsibilities of Cabinet members,**

**shall be as set out in Standing Orders for Meetings.**

**c) The Leader shall appoint a Deputy Leader, as set out in Standing Orders for Meetings.** The Deputy Leader shall, in addition to any other responsibilities arising from his/her membership of the Cabinet, have all the powers and duties of the Leader in the Leader's absence.

~~f) No Member of the Cabinet shall hold more than one of the Portfolios in the Annexes to Schedule 4.~~

~~g) The /Leader may, at any time:-~~

- ~~(i) terminate the appointment of any Member of the Cabinet;~~
- ~~(ii) appoint a new Member of the Cabinet;~~

~~subject to the number and Portfolios of Members of the Cabinet complying with this Constitution~~

~~h) Notwithstanding the provisions of this paragraph the Council may, at its own volition or on a recommendation of the Leader, amend the number of Members and/or the Portfolios in the Cabinet provided that the number complies with the limits of legislation.~~

~~i) Where any changes are made to the Portfolios in the Cabinet under paragraph 4.4 (ii) (g) or (h) above, the Leader shall, within five working days, notify the Chief Executive of any consequential changes to the appointments held by individual Cabinet Members.~~

d) The Chief Executive shall make arrangements to notify all Councillors of Cabinet appointments and make such other arrangements as are necessary to bring the appointment and responsibilities of those councillors to the attention of the public.

All struck through text in 4.4 (ii) is in Standing Orders. New bold text at b) and c) provides cross-references.

#### 4.5 Appointment of Chief Executive and Chief Officers

The roles of the Cabinet and the Council for the recruitment of the Chief Executive and Chief Officers shall be in accordance with the provisions contained within the Standing Orders as to General Procedures.

#### 4.6 Interests

***The procedure*** where any member of the Cabinet has an interest as defined in the Local Government Act 1972, or subsequent legislation, or the local Code of Conduct for Councillors, ***in a matter which is to be considered by the Cabinet is laid down in Standing Orders for Meetings.*** ~~that councillor shall, where the matter is to be considered by the Cabinet, declare an interest and leave the meeting.~~

*Standing Orders lay down procedures in detail.*

Where the decision is delegated to the Cabinet member personally, it shall be referred to the Leader, who shall make the decision him/herself, refer the matter to Cabinet for determination or delegate responsibility to another member of the Cabinet or an Officer. The Deputy Leader shall deal with any matters in which the Leader has an interest. In all cases a councillor with an interest shall take no part in consideration of the issue either at its determination or in discussions or negotiations leading up to the decision being made and shall comply in all respects with the requirements of legislation and the Local Code of Conduct.

#### 4.7 ~~Strategy, Corporate Plan,~~ Policy and Budget Setting

The Council shall be responsible for determining the strategic direction, policies ***and strategies (as laid down in the Annex 2 to Schedule 1 to this Constitution, including any other plans or strategies that it is appropriate for full Council to approve)*** , ~~forward plans,~~ overall budgets and taxation levels of the Council. In determining each of these issues, it shall consider proposals made by the Cabinet and any representations on those proposals by the Review Panels and Committees. The arrangements for involvement of the Review Panels and the Council's Committees in these processes shall be in accordance with Schedule 5 hereto.

*Wording amended to follow legislative and Constitutional provisions for matters reserved to Council.*

#### 4.8 Best Value

The Cabinet shall take the lead in ensuring that the Council meets its statutory duties relating to Best Value. The arrangements for undertaking these duties and the involvement of Review Panels, Committees and Stakeholders shall be in accordance with the Protocol at Schedule 6.

#### 4.9 Absentia Decision Making

Where a Cabinet Member is absent from a Cabinet meeting, ***the procedures laid down in Standing Orders for Meetings shall apply.***

- ~~(i) — decisions may be taken in his/her absence providing there is a quorum of Members present and the Leader shall be responsible for ensuring that any action necessary is implemented.~~
- ~~(ii) — Where a Cabinet member is absent and action on any matter delegated to him/her is required, that action shall be taken by the Leader unless the Leader has delegated responsibility to another member of the Cabinet;~~
- ~~(iii) — the Leader may invite any person, who need not be a Councillor, to attend a meeting of the Cabinet to speak on behalf of the absent Cabinet Member. In such circumstances, that person may not take part in taking the final decision.~~

*Deleted text transferred to Standing Orders (with wording of (ii) amended as Cabinet cannot delegate decisions to a Portfolio Holder - the Portfolio Holder must already have delegated power to make the decision on the terms set out in the Constitution).*

#### 4.10 Decision Making by Cabinet and Portfolio Holders

***The duties of the Cabinet, Portfolio Holders, officers, and the Proper Officer in making executive decisions shall be as laid down in Schedule 7 to this Constitution.***

~~i) — Records of Decisions by Cabinet and Portfolio Holders~~

~~— Every decision shall be taken after consultation with the appropriate professional advising Officer. In all cases, there shall be a record of decisions taken. Arrangements for such consultations and the recording of decisions shall be in accordance with the Protocol attached as Schedule 7.~~

~~(ii) — Proper Officers role in timing and publication of decisions and supporting documentation -~~

~~The Protocol at Schedule 7 identifies the “Proper Officers” appointed by the Council, together with their roles and responsibilities in respect of the recording and timing of publication of decisions and supporting documentation.~~

*Deleted words all spelled out in Schedule 7*

#### **Letting of Contracts**

~~— Where any decision relates to the letting of a contract, an Officer of the Council with delegated powers for this purpose shall sign such Contract. Members shall not sign Contracts.~~

*Covered in Standing Orders for Contracts*

#### 4.11 Decisions outside or not wholly in accordance with Policy and Budget

***Subject to 4.12***, all decisions taken by the Cabinet, Portfolio Holders or Officers shall be in accordance with the Council's approved policies and budgets. ***Schedule 5 to this Constitution lays down the procedures for formulating, preparing, reviewing and amending strategic plans, policies and the budget.*** Where the Chief Executive, Monitoring Officer or Chief Finance Officer advises that any proposed decisions to be taken are contrary to, or not wholly in accordance with, policy or budget and the Financial Regulations, the matter shall be referred to Council by the Cabinet. Where any policy change might have a significant effect on the Council's Corporate Plan, the Cabinet shall firstly refer the matter to the appropriate Review Panel before making recommendations to Council. Where any decision would be contrary to the approved budget, and outside any provisions in financial regulations permitting virement between approved budgets, the Cabinet shall refer the matter to Council for determination.

Schedule lays down precise procedures - no need to repeat

#### 4.12 Urgent decisions

The provisions of Schedule 8 of this Constitution shall apply where it is considered that a decision on any matter that is ~~a key decision which a forward plan does not specify is for decision at that time, and/or~~ is contrary to, or not wholly in accordance with, policy or budget and Financial Regulations, is required urgently in the interests of the functions and services administered by the Council.

***Schedule 8 also prescribes the procedure for making a decision which is a key decision and which has not been included in the forward plan for decision at the appropriate time.***

~~The provisions of paragraph 10.1 of the Protocol at Schedule 7 of this Constitution shall apply where it is considered that a decision on any matter that is in accordance with policy and budget and is not a key decision is required urgently in the interests of the functions and services administered by the Council.~~

*First paragraph now relates only and specifically to urgent decisions outside policy/budget. (Procedures for urgent decisions within policy/budget are in Schedule 7, referred to in paragraph 4.10). New text included to cover recent legislation on key decision.*

#### 4.13 Relationship with Review Panels

- (i) Protocol for "call-in" arrangements

~~Councillors shall not countermand any decision taken by the Cabinet, Committees, Portfolio Holders or Officers except where such decision, as certified by the Monitoring Officer or Section 151 Officer, is contrary to the Council's approved strategies, policies, budgets or the Law. Decisions may however be reviewed under the "call-in" provisions of Schedule 9 hereto.~~

*Superfluous words deleted*

- (ii) ~~Policy Reviews~~

~~Notwithstanding the annual programme of work referred to at Paragraph 5.1 of Part 2 of this Constitution to be undertaken by the Review Panels, the Council or Cabinet may request the appropriate Review Panel to undertake a review of policy at any time. The Cabinet or a Portfolio Holder may also work with a Review Panel to undertake reviews of existing policies or proposed development of new policies at any time. The arrangements referred to in Schedule 5 in relation to policy review and policy development shall apply to all such matters.~~

Review Panels' role in policy reviews is specified in Schedule 5 (procedure for formulating plans, budget and policy), and Schedule 15 (Panels' terms of reference) - no need to repeat it.

#### **4.14 Human Rights**

~~In pursuance of the powers set out in this Constitution, all decision makers shall be responsible for ensuring that decisions taken comply with the Human Rights Act 1998. Proper advice from the appropriate Officers including the Head of Legal and Democratic Services shall be sought prior to making any decision affecting an individual or individuals.~~

*It is not thought necessary to specify this in the Constitution. Human Rights issues are just one of many factors decision makers must take into account - others are not (and need not be) spelled out in the main Constitution document.*

#### **4.15 Disputes**

In the event that the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Cabinet, the arrangements for resolving such disagreement shall be in accordance with the Protocol at Schedule10.

#### **4.16 Parish & Town Councils**

- (i) The Council shall prepare and maintain a Statement of Partnership setting out its relationships with Parish and Town Councils within the District. The current Statement is at Schedule xxx to this Constitution. The Statement shall be reviewed regularly. It may be amended by the Council upon a recommendation from the Cabinet, provided that it shall always include details of the manner and extent of information to be provided to those Councils, and the processes that will be adopted by the District Council in its consultations with them
- (ii) References to Committee, Sub-Committee and Chairmen within the Statement shall include Cabinet, Portfolio Holder and Panels, as appropriate.

#### **4.17 Publicity and Public Relations**

~~The Cabinet shall have power to issue such press releases and carry out such other publicity as it deems necessary for the furtherance of the objectives of the Council. In this context, objectives shall include the dissemination of any information relating to functions and services of the Council and any action that the Council may take or wish to take for the benefit of residents and other stakeholders within the District.~~

*Covered in more detail in the Code of Recommended Practice on Local Authority publicity*

#### **4.18 Ceremonial Duties - Chairman and Vice-Chairman**



The Chairman of the Council shall be, and known to be, the Civic Head of the Council. The Chairman of the Council shall represent the Council, or shall be entitled to appoint another Councillor, to represent the Council at all formal ceremonial occasions within and outside the District. The duties and responsibilities of the Chairman and Vice-Chairman of the Council will be as described in the Portfolios at Schedules 12 and 13.

#### **4.19 Officer support**

The Chief Executive shall ensure that appropriate arrangements are made to provide adequate Officer support to the Cabinet, Review structures, Regulatory Committees and any other democratic meetings or processes. Such arrangements may, from time to time, be amended following consultation with the Cabinet, Review Panels and Committees as appropriate.

#### **4.20 Relationships between Members and Officers**

The Council shall prepare and maintain a protocol setting out rules relating to relationships between Councillors and Officers. A copy is attached as Schedule 14 hereto.

#### **~~4.21 Constitution~~**

~~This constitution may be amended at any time by a meeting of the full Council. No such change shall be considered until the Cabinet, together with the appropriate Review Panels and Committees, have had the opportunity to consider any proposals for change. All proposals and their implementation shall comply with the provisions of the Local Government Act 2000 and any regulations issued thereunder, and in the event that the Constitution is found not to do so, the Chief Executive and the Monitoring Officer can take all necessary steps to ensure compliance with such without recourse to full Council, Cabinet or Panels.~~

~~*Incorporated into paragraph 2*~~

### **5. PART 2 – OVERVIEW AND SCRUTINY**

#### **5.1 Review Panels**

(i) The Council shall appoint such Review Panels as it, at its sole discretion, deems necessary to ensure that ~~in relation to all functions and services of the Council~~ effective arrangements are in place to facilitate the involvement of all members, who are not Members of the Cabinet, in ***the processes described in Schedule 15 to this Constitution:-***

~~a. Policy development and in particular the preparation, review and amendment of the Council's Corporate Plan, Best Value~~

~~Performance Plan and Community Plan or such other similar documents as the Cabinet may recommend to Council for adoption;~~

- ~~b. The review of decisions taken by the Cabinet, Portfolio Holders, Committees and/or Officers and the performance of services provided directly or indirectly by the Council;~~
- ~~c. Formulating new policy proposals for consideration by the Cabinet;~~
- ~~d. Reviews under the Government's Best Value regime;~~
- ~~e. Determining the level of financial resources to be included in annual service budgets and the overall level of the Council's aggregate budgets and the proposed Council Tax;~~
- ~~f. Reviews of performance against target income and expenditure levels.~~

All functions of Review Panels are spelled out in their terms of reference - no need to repeat

- ~~(ii) Meetings of Panels shall be held in public except where confidential or exempt information is being discussed, when the provisions of Sections 100A to 100K and Schedule 12A of the Local Government Act 1972 shall apply.~~

Above is in Standing Orders

- (ii) ***The procedure for the Council to appoint Review Panels is laid down in Standing Orders for Meetings.***

~~At the Annual Meeting of the Council in the year of the ordinary election of Councillors, the Council shall appoint six Review Panels appointed by the Council each with ten Councillors in membership for the following functions:-~~

- ~~• Policy and Strategy, and Finance and Support.~~
- ~~• Crime and Disorder.~~
- ~~• Environment~~
- ~~• Housing.~~
- ~~• Economy and Planning.~~
- ~~• Culture.~~

~~Provided that the Council may at any time amend the number, terms of reference and membership of Panels, subject to such changes ensuring that all functions and services of the Council will be scrutinised by at least one Panel.~~

- ~~(iii) A member appointed to a Panel shall serve for the whole of their four years period of office, or such shorter period if the Member is elected following a Council vacancy. Provided that the Council may, at any time at the request of a Group Leader, alter the membership of any Panel.~~

*Words deleted are in Standing Orders - new sentence in bold print provides cross-reference*

- (iii) The Terms of Reference of the Review Panels shall be in accordance with the provisions of Schedule 15 to this Constitution.
- (iv) The roles of the Chairmen of the Review Panels shall be as described in the Portfolios at Schedule 16 to this Constitution.
- ~~(vi) Where the Council, at its sole discretion, considers co-opted Members with particular skills and expertise will enhance the work of a Panel, it may appoint non-Councillors without voting rights to all or any Panel.~~
- ~~(vii) A Review Panel may co-opt non-Councillors as it deems appropriate, subject to such co-opted Members not having voting rights.~~

*Two sub-paragraphs above transferred to Standing Orders*

- ~~(viii) The Panels shall prepare and submit to Council annual programmes of work to be undertaken each year. Such programmes shall provide for the Panels to carry out reviews of policies and performance of the Executive and, where appropriate, Committees, against the Council's policies and budgets. The Council, Cabinet and Committees may at any time request a Panel to undertake additional policy or performance reviews.~~

*Already in Panels' terms of reference - no need to repeat*

- (iv) The Panels shall have the **operational** rights and **rights of access to information** described in Schedule 17 to assist them in their work.

## ~~5.2 Access to Information~~

~~For the purposes of undertaking the role specified in paragraph 5.1 above, Members of the Panels shall have access to all papers, reports, minutes and records submitted to, and of, the Cabinet, Portfolio Holders,~~

~~Committees and Officers in accordance with the protocol attached as Schedule 12.~~

~~*(iv) above reworded to include 5.2.*~~

### **5.3 Interests**

#### ~~(i) — Review Panels and Committees~~

~~— Unless a dispensation to speak and/or vote has been granted a voting member of a Panel or Committee who has an interest as defined in the Local Government Act 1972, as amended, or the Local Code of Conduct for Councillors shall declare that interest. The member shall leave the meeting where the matter is to be considered, and shall take no part in the consideration of the issue, either at its determination or in discussions or negotiations leading up to the decision being taken.~~

#### ~~(ii) — Area Committees or other Area Forums~~

~~Where any member of an Area Committee or other Area Forum established by the Council has an interest solely as a result of his/her membership of~~

~~a) the Cabinet and the duties allocated to him/her as a Cabinet member, or~~

~~b) a Panel or any other Committee of the Council,~~

~~such membership shall be declared at the Area Committee or other Area Forum but such declaration shall not preclude the member from taking part and voting on matters referred to the Area Committee or Area Forum.~~

~~*All covered in Standing Orders and the Code of Conduct*~~

### **5.4 Parish and Town Councils**

The Statement of Partnership at Schedule 11 and referred to in Paragraph 4.15 of Part 1 of this Constitution shall apply equally to matters dealt with by the Panels and Committees of the Council.

### **5.5 Internal Relations**

#### **(i) Relationships with other Committees**

The Protocol included as Schedule 5 to this Constitution sets out the relationships between the Review Panels, and the Cabinet and other Committees and Area Committees (if appointed).

- (ii) The Protocol referred to at paragraph 4.19 of Part I of this Constitution attached as Schedule 14 shall apply to relationships between members of Review Panels, Committees and employees.

### **5.6 Whipping**

~~In the interests of openness and accountability a member shall disclose at all Panel meetings any advice, or directions received from his/her Group Leader, or the Group, on the views to be expressed on a particular issue or the way in which he/she should vote. The Chief Executive shall be responsible for ensuring that the minutes of meetings record all such disclosures.~~

Covered in Standing Orders

## **6. PART 3 – NON-EXECUTIVE FUNCTIONS**

### **6.1 Full Council**

- (i) Discharge of Functions
  - (a) In addition to any responsibilities described or referred to elsewhere in this Constitution the Council shall discharge those functions and make decisions on all matters which legislation specifically requires the full Council to make.
  - ~~(b) Prior to the discharge of any of its functions, the Council shall, consider a report and recommendations on the matter from the Cabinet, or the appropriate Review Panel or other Committee of the Council, except;~~
    - ~~(i) As a result of a Notice of Motion submitted under the Standing Orders referred to at Schedule 15 which the Council decides is urgent and should be dealt with at that meeting;~~
    - ~~(ii) For the appointment of the Leader of the Council;~~
    - ~~(iii) For the determination of Portfolios;~~
    - ~~(iv) For the election of Chairman and Vice Chairman of the Council;~~
    - ~~(v) For any other matter which the Chairman of the Council decides is urgent and should be dealt with at the meeting;~~

Covered in Standing Orders (except (v) which is not strictly accurate because Council cannot make final decisions on urgent

matters if the matter is a function reserved by legislation to the Executive).

(ii) Appointment of Chief Executive and Chief Officers

The role of the Council and the Cabinet in the arrangements for the recruitment of the Chief Executive and Chief Officers shall be in accordance with the provisions contained within the Standing Orders attached as Schedule 25 to this Constitution.

~~(iii) Amendment of Constitution~~

~~— This Constitution may be amended at any time by a meeting of the full Council. No such change shall be considered until such time as the Cabinet, together with the appropriate Review Panel and other Committees, have had the opportunity to consider any proposals for change. All proposals for change shall comply with the provisions of the Local Government Act 2000 and any Regulations issued thereunder and in implementing such changes, the Council shall also comply with any statutory provisions relating thereto.~~

Incorporated into paragraph 2

(iv) Portfolio of Councillors **Non-Executive Role of all Members**

For the purposes of clarification, Schedule 18 describes the Portfolios of Members in their Representative, Regulatory and Review Roles.

## 6.2 Delegations

Functions allocated under Clause 12(2)(b) of the Local Government Act 2000

- (i) The role of the Council in relation to those statutory responsibilities allocated to the Cabinet shall be in accordance with the provisions of Annex 1 to Schedule 1 of this Constitution.

Reworded in new Constitution document for clarity

(ii) Appointment of Ordinary Committees

***The Council shall appoint such Committees as it deems necessary to undertake its non-executive functions. Procedures for appointing ordinary Committees are laid down in Standing Orders for Meetings. The scheme of delegations to Committees is shown in Schedule 2 to this Constitution. The terms of reference of ordinary Committees are shown in Schedule 19 to this Constitution.***

~~At the Annual Meeting after each election of Councillors, the Council shall establish, and appoint members to, the Committees referred to in Schedule 19 and the Annexes thereto to this Constitution, and such other Committees as it deems necessary to undertake its non-executive~~

~~functions in accordance with the provisions of the Local Government Act 2000,. All appointments to committees shall be made in accordance with the proportionality rules contained within the Local Government and Housing Act 1989. The Council may at any time, upon a recommendation from the Cabinet and having considered the views of the appropriate Review Panels and other committees of the Council, terminate any Panel or Committee or establish such further Panels and Committees as it deems appropriate. All appointments to such newly established Panels and Committees shall be made in accordance with the provisions of the Local Government and Housing Act 1989.~~

*Deleted text is in Standing Orders. New bold text contains necessary cross-references.*

(iii) Area Committees

***The Cabinet may appoint Area Committees only on the recommendation of the Cabinet. Before making any recommendation to Council in relation to Area Committees, the Cabinet will have consulted the Council's Review Panels and Committees***

***If the Council decides to appoint Committees for any area of the District, the procedures shall be as laid down in Standing Orders for Meetings.***

~~Where the Council decide to appoint Committees for any area within the District it shall at the Annual Meeting each year determine the parts of the District to be covered by each Area Committee, their Terms of Reference and the extent of their delegated executive powers, if any. In determining the parts of the District to be covered by each Area Committee the Council will comply with the provisions of the Local Government and Housing Act 1989. The Council may, at any other time, terminate the Area Committees or amend the areas of the District for which Area Committees are responsible, their Terms of Reference and the~~

~~extent of their delegated powers. Before making any recommendations to Council in relation to Area Committees the Cabinet will consult with the Review Panels and Committees of the Council.~~



Unless and until Area Committees are proposed, precise arrangements cannot be foreseen. Limiting reference to the words in bold text will enable procedures to be drawn up at the time, subject to making it clear that full consultation must take place before Area Committees are appointed.

- (iv) Delegations to Committees and Sub-Committees

The Terms of Reference and extent of delegations to Committees shall be in accordance with the provisions set out in Schedule 19 hereto.

- (v) Delegations by **Council**, Committees **and Sub-Committees to Officers**

**The Council, and** every Committee and Sub-Committee of the Council, shall be empowered to delegate any of its functions to officers of the Council, subject to compliance with any provisions in legislation and the Schedules in this Constitution. A list of all delegations shall be maintained by the Chief Executive and shall be kept available at the Council's main office for public inspection. No fee shall be payable for such public inspection.

Words added for clarity

- (vi) Chairmen of Committees

The role of the Chairmen of Committees appointed by the Council shall be as described in Schedule 20 and the Annexes thereto to this Constitution.

### **6.3 — Voting and Quorum**

~~The arrangements for voting and quorum for all meetings of the Council, its committees, sub-committees or other formal meetings of members shall be as specified in the Standing Orders as to meetings attached to this Constitution as Schedule 21.~~

Covered in Standing Orders

### **6.4 Leader of Opposition Groups**

The Council acknowledges the benefits of each group on the Council appointing a Leader with the Portfolio described in Schedule 22 to this Constitution.

## **7. PART 4 – STANDING ORDERS**

- (i) As to meetings

The Standing Orders at Schedule 21 to this Constitution shall apply, as specified therein to all meetings of the Council, Cabinet, Committees, Sub-Committees, Panels and other formal meetings of councillors.

(ii) As to financial matters

The Council's financial affairs shall be controlled in accordance with the Financial Regulations contained in Schedule 23-~~Financial Regulations may be amended in accordance with the provisions contained therein.~~

Financial Regulations do not contain provision for their own amendment. The general provisions in the main Constitution document stating how to amend the Constitution apply.

(iii) As to Contracts

All contracts made on behalf of the Council shall comply with the provisions of the Standing Orders as to Contracts attached as Schedule 24 to this Constitution. Standing orders as to Contracts may be amended in accordance with the provisions contained therein.

(iv) As to general procedures

The Standing Orders attached as Schedule 25 in respect of general operating arrangements shall provide the proper authority for the preparation of Codes, Protocols and schemes in respect of the matters detailed below:-

- (a) Appointment of staff (other than Chief Executive and Chief Officers) (Schedule 26)
- (b) Members' Allowances (Schedule 27 and Annex 1)
- (c) Member/officer relationships (including the role of the Chief Executive, Monitoring Officer, Chief Finance Officer and Proper Officers (Schedule 14)

## 8. PART 5 – CODES OF CONDUCT

The Codes of Conduct detailed below shall apply to all councillors and other persons serving on the Cabinet, Committees, sub-Committees, Panels or other bodies established by the Council. For the purposes of this part of the Constitution, Codes of Conduct shall be deemed to include protocols and other documents that set standards of behaviour and probity applicable to elected members of the Council, persons co-opted to Panels or Committees and to Officers.

- Codes of Conduct for Employees - Schedule 28
- National Code of Local Government Conduct – Schedule 29

- Local Code of Conduct for Councillors and Officers dealing with Planning Matters – Schedule 30
- Code of Conduct on Housing Stock Transfer Review – Schedule 31
- Protocol – Access to Information – Schedule 32
- Indemnity of Members and Officers - Schedule 33
- Security Policy on the Internet, Intranet and Electronic Mail - Schedule 34
- Fraud, Corruption & Probity (A Guide for Managers) - Schedule 35
- Fraud, Corruption & Probity (An Employee Guide) - Schedule 36

Where the Council approve and adopt further Codes of Conduct, copies shall be appended as Schedules to this Constitution.

CONSTIT/CONSTIT.DOC  
July01

## NEW FOREST DISTRICT COUNCIL CONSTITUTION

1. This Constitution was adopted by New Forest District Council on 23 April 2001 and came into effect on 1 August 2001.

2. **Amendment of Constitution**

Unless anything in this Constitution provides otherwise, the Council may only amend this Constitution on a recommendation from the Cabinet. Before the Cabinet makes such a recommendation, it shall consult the Review Panels and Committees that will be affected by the amendments. All amendments shall comply with the requirements of the Local Government Act 2000 and regulations thereunder. If the Constitution is found not to comply, the Chief Executive and the Monitoring Officer can take all necessary steps to ensure compliance without recourse to full Council, Cabinet or Panels.

3. **Interpretation**

3.1 For the purposes of this Constitution, the following definitions, except where otherwise stated, shall apply:-

- Budgets – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax, all the components of the budget, such as budgetary allocations to different services and projects, proposed taxation levels, contingency funds (reserves and balances), and any plan or strategy for the control of the Council's borrowing or capital expenditure.
- Cabinet – means the formal body within the Council defined as the Executive under the Local Government Act 2000.
- Chief Executive – The Head of the Council's Paid Service under Section 4 of the Local Government Housing Act 1989.
- Chief Finance Officer – means the Officer appointed by the Council under Section 151 of the Local Government Act 1972 with responsibility for the proper administration of the Council's Officers.
- Committees – means the Standards Committee, the Planning Development Control Committee, the General Purposes and Licensing Committee, the Appeals Committee and any other Committees comprising of only Councillors as voting Members established by the Council to undertake any of its functions.
- Council – means the Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972.
- Forward plan means a monthly plan containing particulars of matters on which key decisions are likely to be made, as prescribed in the Local Authorities ((Executive Arrangements) (Access to Information) Regulations 2000.

- Key decision - means a decision which is likely either:
  - i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - ii) to result in an outcome which will have an impact, for better or worse, on a significant number of people living or working in an area comprising two or more wards in the Council's area;

or which, in the opinion of the decision-maker, is likely to be significant in terms of its effect on communities in a ward.

In determining whether i) above applies, expenditure or savings shall always be treated as significant if the sum exceeds £50,000, or 25% of the gross budget for the service, whichever is greater.

- Leader – means the Councillor appointed by the Council to be its principal political leader.
- Monitoring Officer – means the Officer appointed under Section 5 of the Local Government and Housing Act 1989.
- Panel – means Review Panel.
- Portfolio Holder – means the Councillor responsible for a specific Portfolio.
- Portfolios – means activities which are the responsibilities of a single Member.
- Strategic Plans – means the Council's corporate plan, best value performance plan, community strategy, community safety strategy, Local Plan, and such other similar plans or strategies as the Council may determine.

## **5. EXECUTIVE ARRANGEMENTS**

### **4.1 Form of Executive**

The Executive shall be in the form of a Leader with a Cabinet as provided in Section 11(3) of the Local Government Act 2000.

### **4.2 Membership and Terms of Reference of Cabinet**

#### **(i) Membership**

The Cabinet shall comprise 8 members, including the Leader of the Council. The Council may amend the number of members, under the procedures in Standing Orders for Meetings, provided the number remains within the limits laid down by legislation.

#### **(ii) Terms of Reference**

Except where legislation or this Constitution provide otherwise, the Cabinet shall be responsible for all functions of, and matters affecting, the Council. The Cabinet's terms of reference are set out in Chapter 1.

Annex 1 to Chapter 1 shows the extent of the Cabinet's responsibilities for functions that Schedule 2 to the Local Authorities (Functions and Responsibilities) Regulations 2000 provides may be (but need not be) the responsibility of the executive.

Annex 2 to Chapter 1 shows the extent of the Cabinet's responsibilities for functions that Schedules 3 and 4 to the Regulations provides are not to be the sole responsibility of the executive. (These are plans or strategies specified in the Regulations, and other plans or strategies that the Council has determined it should decide whether to adopt or approve).

#### **4.3 Cabinet Meetings**

Procedures for holding and convening Cabinet meetings are laid down in the Council's Standing Orders for Meetings.

#### **4.4 Leader - Duties and Appointment**

The Leader of the Council shall be the principal political leader in all respects. The Leader's duties and responsibilities shall be as described in Chapter 2.

The Leader of the Council shall be appointed by the Council under the procedures in Standing Orders for Meetings. The Leader of the Council shall be eligible for re-election.

The Council may terminate the appointment of the Leader under the procedures in Chapter 3, provided that no proposal to terminate his or her appointment shall be made solely for the purpose of resolving a single dispute under paragraph 4.16 below.

#### **4.5 Cabinet members - Duties and Appointment**

The procedure for:

- i) deciding the content of Portfolios,
  - ii) appointing, and terminating the appointment of, Cabinet members, and
  - iii) deciding the duties and responsibilities of Cabinet members,
- shall be as set out in Standing Orders for Meetings.

The duties and responsibilities of Cabinet members shall be in accordance with Chapter 4 and the Annexes thereto.

#### **4.6 Deputy Leader - Duties and Appointment**

The Leader shall appoint a Deputy Leader, as set out in Standing Orders for Meetings. The Deputy Leader shall, in addition to any other responsibilities arising from his/her membership of the Cabinet, have all the powers and duties of the Leader in the Leader's absence.

#### **4.7 Notification of Cabinet Appointments**

The Chief Executive shall make arrangements to notify all Councillors of Cabinet appointments and make such other arrangements as are necessary to bring the appointment and responsibilities of those councillors to the attention of the public.

#### **4.8 Delegation of Executive Functions to Portfolio Holders and Officers**

The scheme of delegations to Portfolio Holders is set out in Chapter 5.

The Cabinet shall be empowered to delegate any of its functions to officers of the Council, subject to compliance with legislation and this Constitution.

The Chief Executive shall ensure that a comprehensive Register of powers delegated to individual councillors and officers is maintained at all times. The Register shall be held at the office of the Chief Executive, and shall be available for public inspection during office hours. No fee shall be payable for public inspection.

#### **4.9 Decision making by the Executive**

The duties of the Cabinet, Portfolio Holders, officers (when making key decisions), and the Chief Executive or Monitoring Officer in making executive decisions shall be as laid down in Chapter 6.

#### **4.10 Absence of Cabinet member from Cabinet meeting**

Where a Cabinet Member is absent from a Cabinet meeting, the procedures laid down in Standing Orders for Meetings shall apply.

#### **4.11 Interests of Cabinet Members**

Standing Orders for Meetings lay down the procedure where a Cabinet member has an interest (as defined in the Local Government Act 1972, or subsequent legislation, or the local Code of Conduct for Councillors), in a matter which is to be considered by the Cabinet.

Where a decision in which he has an interest is delegated to the Cabinet member personally, it shall be referred to the Leader. The Leader may either:

- i) make the decision himself, or
- ii) refer the matter to Cabinet for determination, or
- iii) delegate responsibility to another Cabinet member or an Officer.

The Deputy Leader shall deal with any matters in which the Leader has an interest.

In all cases the member with the interest shall take no part in consideration of the issue, either at its determination or in discussions or



negotiations leading up to the decision being made, and shall comply in all respects with the requirements of legislation and the Local Code of Conduct.

#### **4.12 Decisions outside or not wholly in accordance with Policy and Budget, and key decisions not in the forward plan**

Subject to the provisions relating to urgent decisions below, all decisions taken by the Cabinet, Portfolio Holders or Officers shall be in accordance with the Council's approved policies and budgets (or authorised under Financial Regulations if not within budget). (See Chapter 19 for the procedures for formulating, preparing, reviewing and amending strategic plans, policies and the budget).

##### Urgent decisions:

Chapter 7 prescribes the procedure where it is considered that a decision on any matter that is contrary to, or not wholly in accordance with, policy or budget and Financial Regulations, is required urgently in the interests of the functions and services administered by the Council.

Chapter 7 also prescribes the procedure for making a decision which is a key decision and which has not been included in the forward plan for decision at the appropriate time.

#### **4.13 Scrutiny of Executive Decisions**

Executive decisions may be reviewed under the "call-in" provisions in Chapter 8.

#### **4.14 Cabinet's role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, policies and strategies (as laid down in the Annex 2 to Schedule 1 to this Constitution, including any other plans or strategies that it is appropriate for full Council to approve), overall budgets and taxation levels of the Council. The Cabinet's responsibility for submitting proposals to the Council is set out in Chapter 19.

#### **4.15 Cabinet's role in Best Value**

The Cabinet shall take the lead in ensuring that the Council meets its statutory duties relating to Best Value. The arrangements for undertaking these duties are set out in Chapter 20.

#### **4.16 Disputes between Council and Cabinet**

If the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Cabinet, the arrangements for resolving the disagreement shall be as set out in Chapter 21.

## **5. OVERVIEW AND SCRUTINY**

### **5.1 Review Panels - Appointment and Terms of Reference**

The Council shall appoint such Review Panels as it, at its sole discretion, deems necessary to ensure that effective arrangements are in place to facilitate the involvement of all members, who are not Members of the Cabinet, in the processes described in Chapter 9.

The terms of reference of Review Panels shall be as described in Chapter 9.

### **5.2 Review Panels' role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, policies and strategies (as laid down in the Annex 2 to Schedule 1 to this Constitution), overall budgets and taxation levels of the Council. The Review Panels may make representations on these matters, as set out in Chapter 19.

### **5.3 Review Panels' role in Best Value**

This is set out in Chapter 20.

### **5.4 Review Panels' right to call in Executive Decisions**

This is set out in Chapter 8.

### **5.5 Review Panels' rights in relation to key decisions**

This is set out in section 9 of Chapter 6.

### **5.6 Review Panel Chairmen**

The roles of the Chairmen of the Review Panels shall be as described in Chapter 11.

Chapter 7 sets out the role of Review Panel Chairmen if the executive considers that it needs to make an urgent decision outside policy or budget, or an urgent key decision not included in the forward plan.

### **5.7 Operational Rights and Rights of Access to Information**

The Panels shall have the operational rights and rights of access to information described in Chapter 10 to assist them in their work.

## **6. NON-EXECUTIVE FUNCTIONS**

### **6.1 Full Council**

In addition to any responsibilities described or referred to elsewhere in this Constitution, the Council shall discharge those functions and make decisions on all matters which legislation specifically requires the full Council to make. (See also 6.9 below).

### **6.2 Appointment of Ordinary Committees**

The Council shall appoint such Committees as it deems necessary to undertake its non-executive functions. Procedures for appointing ordinary Committees are laid down in Standing Orders for Meetings.

The scheme of delegations to Committees is shown in Chapter 12.

The terms of reference of ordinary Committees, and any Sub-Committees they appoint, are shown in Chapter 13.

### **6.3 Area Committees**

The Council may appoint Area Committees only on the recommendation of the Cabinet. Before making any recommendation to Council in relation to Area Committees, the Cabinet will have consulted the Council's Review Panels and Committees.

If the Council decides to appoint Committees for any area of the District, the procedures shall be as laid down in Standing Orders for Meetings.

### **6.4 Delegations by Council, Committees and Sub-Committees to Officers**

The Council, and every Committee and Sub-Committee of the Council, shall be empowered to delegate any of its functions to officers of the Council, subject to compliance with any provisions in legislation and this Constitution. A list of all delegations shall be maintained by the Chief Executive and shall be kept available at the Council's main office for public inspection. No fee shall be payable for public inspection.

### **6.5 Chairmen of Committees**

The role of the Chairmen of Committees appointed by the Council shall be as described in Chapter 14 and the Annexes thereto.

### **6.6 Ceremonial Duties - Chairman and Vice-Chairman**

The Chairman of the Council shall be, and known to be, the Civic Head of the Council. The Chairman of the Council shall represent the Council, or shall be entitled to appoint another Councillor to represent the Council, at all formal ceremonial occasions within and outside the District. The

duties and responsibilities of the Chairman and Vice-Chairman of the Council are set out in Chapters 15 and 16.

#### **6.7 Non-Executive Role of all Members**

For the purposes of clarification, Chapter 17 describes the main roles, duties and responsibilities, and key tasks of Members in their representative, regulatory and review roles.

#### **6.8 Leader of Opposition Groups**

The Council acknowledges the benefits of each group on the Council appointing a Leader with the role described in Chapter 18.

#### **6.9 Council's Role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, overall budgets and taxation levels of the Council. Full procedures for strategic plan, policy and budget setting are set out in Chapter 19.

Column 2 of Annexes 1 and 2 to Chapter 1 state the extent of the Executive's responsibility for the functions listed in column 1. The Council shall be responsible for all other aspects of the functions listed in Column 1 of those Annexes, including approval of the plans and strategies listed in column 1 of Annex 2, and approval of any other plans and strategies that it is appropriate for full Council to approve.

#### **6.10 Council's role in Best Value**

This is set out in Chapter 20.

#### **6.11 Disputes between Council and Cabinet**

If the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Cabinet, the arrangements for resolving the disagreement shall be as set out in Chapter 21.

### **7. GENERAL PROVISIONS**

#### **7.1 Officer support**

The Chief Executive shall ensure that appropriate arrangements are made to provide adequate Officer support to the Cabinet, Review Panels, Committees and any other democratic meetings or processes. Such arrangements may, from time to time, be amended following consultation with the Cabinet, Review Panels and Committees as appropriate.

## **7.2 Additional provisions in Constitution**

The Constitution shall include the following:

### **(a) Parish & Town Councils - Statement of Partnership**

The current Statement is at Chapter 22. The Statement shall be reviewed regularly. It may be amended by the Council upon a recommendation from the Cabinet, provided that it shall always include details of the manner and extent of information to be provided to those Councils, and the processes the District Council will adopt in its consultations with them. References in the Statement to Committee, Sub-Committee and Chairmen shall include Cabinet, Portfolio Holders and Panels, as appropriate.

### **(b) Standing Orders for Meetings**

These are at Chapter 23. They shall apply, to the extent specified in them, to all meetings of the Council, Cabinet, Committees, Sub-Committees, Panels and other formal meetings of Councillors.

They shall provide proper authority for preparing a scheme or schemes permitting the public to participate at meetings (Chapter 24).

### **(c) Financial Regulations**

The Council's financial affairs shall be controlled in accordance with the Financial Regulations contained in Chapter 25.

### **(d) Standing Orders for Contracts**

All contracts made on behalf of the Council shall comply with the Standing Orders as to Contracts at Chapter 26. They may be amended in accordance with the procedures specified in them.

### **(e) Standing Orders for General Procedures.**

These are at Chapter 27. They shall provide the proper authority for:

- i) The roles of the Cabinet and the Council in recruiting the Chief Executive and Chief Officers

ii) Preparation of Codes and schemes for:

Appointing employees (other than Chief Executive and Chief Officers) (Chapter 28)  
Members allowances (Chapter 29)  
Relationships between members and officers (Chapter 30)

**(f) Tenant Consultation Arrangements**

These are set out at Chapter 31.

**(g) Codes of Conduct**

The Codes of Conduct detailed below shall apply to all councillors and other persons serving on the Cabinet, Committees, Sub-Committees, Panels or other bodies established by the Council.

For the purposes of this part of the Constitution, Codes of Conduct shall be deemed to include protocols and other documents that set standards of behaviour and probity applicable to elected members of the Council, persons co-opted to Panels or Committees and to Officers.

- National Code of Local Government Conduct – Chapter 32
- Local Code of Conduct for Councillors and Officers dealing with Planning Matters – Chapter 33
- Code of Conduct on Housing Stock Transfer Review – Chapter 34
- Code of Conduct for Employees - Chapter 35
- Policy Statement on Access to Information – Chapter 36
- Indemnity of Members and Officers - Chapter 37
- Security Policy on Information and Communications Technology - Chapter 38
- Fraud, Corruption & Probity (A Guide for Managers) - Chapter 39
- Fraud, Corruption & Probity (An Employee Guide) - Chapter 40

Where the Council approve and adopt further Codes of Conduct, copies shall be appended to this Constitution.

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## **EXTENT OF POWERS DELEGATED TO PORTFOLIO HOLDERS**

### **POLICY AND STRATEGY PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 1 to Schedule 4 to this Constitution.

### **CRIME AND DISORDER PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 2 to Schedule 4 to this Constitution.

### **ENVIRONMENT PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 3 to Schedule 4 to this Constitution.

### **HOUSING PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 4 to Schedule 4 to this Constitution.

### **ECONOMY AND PLANNING PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 5 to Schedule 4 to this Constitution.

### **LEISURE PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 6 to Schedule 4 to this Constitution.

### **FINANCE AND SUPPORT PORTFOLIO HOLDER**

Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 7 to Schedule 4 to this Constitution.

**HEALTH AND SOCIAL EXCLUSION PORTFOLIO HOLDER**

***Subject to compliance with the General Conditions set out above, to take all executive decisions on matters falling within the specific service responsibilities listed at Section C of Annex 8 to Schedule 4 to this Constitution.***

## **PORTFOLIO DESCRIPTIONS FOR CABINET**

1. The functions of the Cabinet shall be divided into Portfolios agreed by the Council.
2. The Leader shall allocate responsibility for each Portfolio to a Member of the Cabinet who shall be known as a Portfolio Holder.
3. The Portfolio Holder shall provide the political vision and leadership for each of the services contained within his/her Portfolio.
4. The responsibilities of the Portfolio Holders for the functions and services contained within each of the Portfolios approved by the Council, and referred to below, shall be as described in the Annexes to this Schedule:-

### **Policy and Strategy - Annex 1**

Functions and Services included:

- Corporate and Community Plans
- Best Value
- Political and Management Structures
- Financial Strategy and Budget Targets
- Public Relations
- Human Resources

### **Crime and Disorder - Annex 2**

Functions and Services included:

- Crime and Disorder
- Community Safety
- Emergency Planning
- Road Safety

### **Environment - Annex 3**

Functions and Services included:

- Environmental Health Services
- Sustainability co-ordination
- Refuse Collection
- Street Cleaning

- Grounds Maintenance
- Recycling
- Public Conveniences
- Cemeteries
- Pest Control
- Dog Wardens
- Coastal Protection
- Land Drainage and Sewerage

#### **Housing - Annex 4**

Functions and Services included:

- Housing Strategy
- Housing Investment Programme
- Housing Service Delivery
- ~~Personal Health~~
- ~~Social Exclusion~~
- Improvement Grants

#### **Economy and Planning - Annex 5**

Functions and Services included:

- Planning Strategy
- Development Plans
- Economic Development
- Building Control
- Transportation
- Car Park Management
- Concessionary Travel
- Highways Agency and Highways Development Control Advice
- Street Naming and Numbering
- Local Land Charges

#### **Leisure - Annex 6**

Functions and Services included:

- Arts
- Play
- Sport
- Recreation
- Tourism
- Museums
- Galleries
- Libraries
- Adult Learning
- Youth Work
- Open Space
- Sports, youth, community and arts development grants

## **Finance and Support - Annex 7**

Functions and Services included:

- Information and Communications Technology
- Land and Buildings Asset Management
- Commercial Services – including catering services
- Capital and Revenue Budgets
- Council Tax and Benefits
- National Non-Domestic Rates – including Discretionary Non-Domestic Rate Relief
- Voluntary and Charitable Grants (excluding those dealt with by the Leisure Services Portfolio Holder)
- Central Support Services, including –

*Accountancy*

Information Services

Legal and Democratic Services

Exchequer Functions

Chief Executive's Administration

## ***Health and Social Exclusion - Annex 8***

Functions and Services included:

- ***Personal Health***
- ***Social Exclusion***

**PORTFOLIO HOLDER – HOUSING**

**A) MAIN ROLE**

To take collective responsibility for those issues determined by Cabinet under its Terms of Reference and Scheme of Delegation.

**B) GENERAL PERSONAL RESPONSIBILITIES**

Be the principal political adviser for the services included within the Portfolio for which the Cabinet Member has been appointed the Portfolio Holder, and within any constraints imposed by legislation, approved Council policy and budgets and the Council's Scheme of Delegation be responsible for:-

- 1) Maintaining an understanding of the issues involved in the delivery of services.
- 2) Being apprised of developing issues and policies at District, County, Regional and National levels.
- 3) Giving direction on and ensuring the development of the vision for the services, strategies and policies consistent with the overall strategic approach of the Council.
- 4) Promoting and improving the economic, social and environmental well-being of the District.
- 5) Balancing the social, environmental and economic components of sustainability in the development of services and their delivery.
- 6) Liaising with other Portfolio Holders and in particular developing arrangements to ensure clear linkages with cross-cutting issues being addressed by, or affecting, the Council, and reporting thereon to Cabinet.
- 7) With regard to the preparation, amendment and revision of any statutory or non-statutory strategic, technical or service plans:-
  - i. Identify the strategic or service objectives;
  - ii. Promote the principal policy issues to be included;
  - iii. Ensure adequate arrangements are in place to fully involve all Councillors, employees where appropriate, residents and all other stakeholders in the preparation and reviews of any plans;
  - iv. Identify and take full account of any cross-cutting issues;
  - v. Make provision to disseminate the content and implications of any proposed or adopted plans throughout the District, and where appropriate regionally and nationally;
  - vi. Ensuring implementation and regular reviews.
- 8) Defining the standards of service, targets and budgets to include:-
  - i. Preparation of schemes for implementation or proposals for submission to Cabinet and Council as part of the expenditure plan process;

- ii. Monitoring service standards, performance and budgets and initiating action to meet service, performance and budget targets;
  - iii. The content and implementation of action programmes to achieve the aims of adopted strategies and service plans;
  - iv. Being responsible for the efficient delivery of services;
  - v. Implementing changes to meet requirements of legislation;
  - vi. Approving the level of fees chargeable for Council services and any variations thereto;
  - vii. Development of an annual process of policy and performance reviews;
  - viii. Implementing arrangements for involving the Council, Cabinet, Employees, Residents and other stakeholders in the preparation of strategies, policies and budgets;
  - ix. Developing strong relationships between service policy aims and those of the Council corporately, as well as between service aims and service delivery;
- 9) With regard to Best Value, ensure that:-
- i. The programme and dates for review are met;
  - ii. The adopted means of review is used;
  - iii. Relevant cross-cutting issues are fully considered during reviews;
  - iv. Identifying the need for the development of new policies and strategies following reviews;
  - v. Following reviews, action plans with challenging targets for continuous service improvements are set and that progress against those plans is regularly monitored.
- 10) Ensuring the optimum use of resources and skills by recognising the benefits of formal and informal partnership working;
- 11) Working in partnership with relevant external organisations – in particular Parish and Town Councils and to encourage and facilitate development of Community Planning arrangements throughout the District;
- 12) Co-operating fully with the Review Panels in any reviews undertaken by those Panels;
- 13) Ensuring that prior to decisions being taken which affect a particular Ward the Ward Councillors have been fully consulted;
- 14) Promoting the core values of the Council as set out in corporate plans;
- 15) Approving responses to consultation papers issued by the Government and outside organisations;
- 16) Speaking on behalf of the Council;
- 17) Representing the Council, or identifying and appointing other Councillors to do so, on relevant external bodies;
- 18) Considering and developing proposals for the effective use of land and property;
- 19) Facilitating and encouraging public participation and consultation and ensuring the effective communication of Council policies and strategies to all Councillors, employees, residents, partner organisations and other stakeholders;



- 20) Receiving representations from Councillors acting in their capacity as Ward Members in relation to the provision of services to residents in their areas or as the Council's representative on outside bodies, or as Councillors with a specific interest in any topic;
- 21) Seeking appropriate officer advice when making decisions under delegated powers;
- 22) Attending, and taking part in, such training sessions/courses as may be determined by the council or the Leader;
- 23) Complying with the provisions of all National and Local Codes of Conduct applicable to Councillors and in particular any provisions relating to interests;

## **C. SPECIFIC SERVICES RESPONSIBILITIES**

4. Housing
    - i Preparation of the housing strategy and links with partners;
    - ii Preparation of the Housing Investment Programme;
    - iii Provision, management and maintenance of affordable homes to meet housing need;
    - iv Private sector provision;
    - v Tenant participation, including the housing compact;
    - vi Ancillary activities such as warden and life line services;
    - vii Housing Improvement Grants.
- 
- ~~2. Personal Health and Social Exclusion~~
    - ~~i Health strategies;~~
    - ~~ii Health improvement programmes;~~
    - ~~iii Promotion of health and social exclusion issues in the community;~~
    - ~~iv Ancillary activities, for example, support for meals on wheels, luncheon clubs and voluntary organisations, which affect the health and welfare of residents in the District;~~
    - ~~v Welfare funerals~~

**PORTFOLIO HOLDER – WITHOUT SPECIFIC RESPONSIBILITY HEALTH AND SOCIAL EXCLUSION**

**A) MAIN ROLE**

To take collective responsibility for those issues determined by Cabinet under its Terms of Reference and Scheme of Delegation.

**B) GENERAL PERSONAL RESPONSIBILITIES**

Be the principal political adviser for the services allocated to the Portfolio from time to time, and within any constraints imposed by legislation, approved Council policy and budgets and the Council's Scheme of Delegation be responsible for:-

- 1) Maintaining an understanding of the issues involved in the delivery of services.
- 2) Being apprised of developing issues and policies at District, County, Regional and National levels.
- 3) Giving direction on and ensuring the development of the vision for the services, strategies and policies consistent with the overall strategic approach of the Council.
- 4) Promoting and improving the economic, social and environmental well-being of the District.
- 5) Balancing the social, environmental and economic components of sustainability in the development of services and their delivery.
- 6) Liaising with other Portfolio Holders and in particular developing arrangements to ensure clear linkages with cross-cutting issues being addressed by, or affecting, the Council, and reporting thereon to Cabinet.
- 7) With regard to the preparation, amendment and revision of any statutory or non-statutory strategic, technical or service plans:-
  - i. Identify the strategic or service objectives;
  - ii. Promote the principal policy issues to be included;
  - iii. Ensure adequate arrangements are in place to fully involve all Councillors, employees where appropriate, residents and all other stakeholders in the preparation and reviews of any plans;
  - iv. Identify and take full account of any cross-cutting issues;
  - v. Make provision to disseminate the content and implications of any proposed or adopted plans throughout the District, and where appropriate regionally and nationally;
  - vi. Ensuring implementation and regular reviews.
- 8) Defining the standards of service, targets and budgets to include:-
  - i. Preparation of schemes for implementation or proposals for submission to Cabinet and Council as part of the expenditure plan process;

- ii. Monitoring service standards, performance and budgets and initiating action to meet service, performance and budget targets;
  - iii. The content and implementation of action programmes to achieve the aims of adopted strategies and service plans;
  - iv. Being responsible for the efficient delivery of services;
  - v. Implementing changes to meet requirements of legislation;
  - vi. Approving the level of fees chargeable for Council services and any variations thereto;
  - vii. Development of an annual process of policy and performance reviews;
  - viii. Implementing arrangements for involving the Council, Cabinet, Employees, Residents and other stakeholders in the preparation of strategies, policies and budgets;
  - ix. Developing strong relationships between service policy aims and those of the Council corporately, as well as between service aims and service delivery;
- 9) With regard to Best Value, ensure that:-
- i. The programme and dates for review are met;
  - ii. The adopted means of review is used;
  - iii. Relevant cross-cutting issues are fully considered during reviews;
  - iv. Identifying the need for the development of new policies and strategies following reviews;
  - v. Following reviews, action plans with challenging targets for continuous service improvements are set and that progress against those plans is regularly monitored.
- 10) Ensuring the optimum use of resources and skills by recognising the benefits of formal and informal partnership working;
- 11) Working in partnership with relevant external organisations – in particular Parish and Town Councils and to encourage and facilitate development of Community Planning arrangements throughout the District;
- 12) Co-operating fully with the Review Panels in any reviews undertaken by those Panels;
- 13) Ensuring that prior to decisions being taken which affect a particular Ward the Ward Councillors have been fully consulted;
- 14) Promoting the core values of the Council as set out in corporate plans;
- 15) Approving responses to consultation papers issued by the Government and outside organisations;
- 16) Speaking on behalf of the Council;
- 17) Representing the Council, or identifying and appointing other Councillors to do so, on relevant external bodies;
- 18) Considering and developing proposals for the effective use of land and property;
- 19) Facilitating and encouraging public participation and consultation and ensuring the effective communication of Council policies and strategies to all Councillors, employees, residents, partner organisations and other stakeholders;

- 20) Receiving representations from Councillors acting in their capacity as Ward Members in relation to the provision of services to residents in their areas or as the Council's representative on outside bodies, or as Councillors with a specific interest in any topic;
- 21) Seeking appropriate officer advice when making decisions under delegated powers;
- 22) Attending, and taking part in, such training sessions/courses as may be determined by the council or the Leader;
- 23) Complying with the provisions of all National and Local Codes of Conduct applicable to Councillors and in particular any provisions relating to interests;

## **C. SPECIFIC SERVICES RESPONSIBILITIES**

~~In relation to those projects allocated to the Portfolio Holder to the Leader, with specific approval of the Council, to be the principal political adviser and lead Member for undertaking such research and consultation as may be necessary and submitting any reports thereon to Cabinet.~~

### ***Personal Health and Social Exclusion***

- i Health strategies;***
- ii Health improvement programmes;***
- iii Promotion of health and social exclusion issues in the community;***
- iv Ancillary activities, for example, support for meals on wheels, luncheon clubs and voluntary organisations, which affect the health and welfare of residents in the District;***
- v Welfare funerals***

**TERMS OF REFERENCE**

**GENERAL PURPOSES AND LICENSING COMMITTEE**

1. To be responsible for all matters relating to the administration of Licences determined by the Council under Part B of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000. Such responsibilities include power to delegate functional responsibility to individual Officers for determination of any application for any Consent, Licence, Certificate, Permit, Registration or the like and:
  - a. Where officers are unable or feel it is inappropriate to made a decision under their delegated powers, to determine any matter coming within the Committee's Terms of Reference through a Panel of up to five members of the Committee as determined by the Head of Legal and Democratic Services.
2. Except in relation to the Council as an employer, to advise the Council on functions under any relevant statutory provision within the meaning of Part 1 (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc., Act 1974

under Part C of The Local Authorities (Functions and Responsibilities)(England) Regulations 2000.

3. To advise the Council on all matters, including the appointment of appropriate Officers, relating to:-
  - a) electoral registration and elections
  - b) establishment, dissolution, grouping and any other matters relating to Parishes and Parish Councils
  - c) declarations of vacancy in certain offices
  - d) the name, status of areas and individuals
  - e) the making, amendment, revocation or re-enactment of byelaws
  - f) the promotion or opposition to local or personal Bills
  - g) Local Government pensions

under Parts D,E,F,G and H of Schedule 1 to The Local Authorities (Functions and Responsibilities)(England) Regulations 2000.

4. To authorise the requisition of information as to interests in land in connection with the functions delegated to the Committee.

5. To respond, as consultee, on issues relating to sea fisheries.
6. To advise the Council on the approval of the Authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be) under The Accounts and Audit Regulations 1996.
7. Where appropriate, to advise the Council on appointments to Committees, Sub-Committees and Joint Committees.
8. To advise the Council on standing orders for meetings and other matters.
9. To advise the Council on the arrangements for the appointment of staff to discharge the Authority's functions properly.
10. To make recommendations to Council on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.
11. To vary the maximum hackney carriage fares applicable in the District.
12. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Committee to an officer of the Council.
13. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.
14. ***To advise the Council on appointing staff and the terms and conditions on which employees hold office (including procedures for their dismissal).***

(November 2000)

TERMS OF REFERENCE

**INDUSTRIAL RELATIONS COMMITTEE**

1. To act as an advisory body to the Cabinet (*for executive functions*), and to the *General Purposes and Licensing and Standards Committees as appropriate (for non-executive functions)* on:-
  - a) Major issues of concern to the Council and its employees, always provided that no question of individual discipline, grievance or grading shall be within the scope of the Committee unless referred to it by the Council, the Cabinet, or a Panel or Committee of the Council.
  - b) Any relevant matter referred to it by the Council, Cabinet, a Panel or Committee of the Council, the Chief Executive or by any of the trades unions.
  - c) Negotiations to alter the Local Terms and Conditions of Service of employees.
  - d) Disputes about the application and interpretation of conditions of service.
  - e) Reviews of the conditions of employment, organisation and training of the Council's employees.
  - f) Negotiations relating to procedural agreements, including the disciplinary, disputes and grievance procedures.
  - g) Such other matters as are specifically assigned to the Committee.

**TERMS OF REFERENCE OF CABINET**

1. To exercise all functions of the Council ***authority, except those reserved to Council under legislation or the Council's Constitution***, including those set out in Annexes 1 and 2, to the extent specified therein ***in column 2 of those Annexes***, and in particular to:-

*Words amended for clarity. Previous words could have suggested Council can delegate functions to Cabinet. In fact, legislation prescribes which functions must be exercised by Council (or on its behalf under delegated powers), and which must be exercised by Cabinet (or on its behalf under delegated powers).*

- (i) Lead the community planning process and the search for Best Value.
- (ii) Lead the preparation of the Council's policies and budgets.
- (iii) Take in year decisions on resources; together with other stakeholders and partners in the local community; to deliver budget and policies decided by the full Council; and;
- (iv) Be the focus for forming partnerships with other Local Authorities, public, private, voluntary and community sector organisations to address local needs.
- (v) Approve and adopt Supplementary Planning Guidance.

except for:-

- a. Those which legislation provides may only be discharged by the Council.
- b. Those which are the responsibility of the Review Panels.
- c. Those matters relating to regulatory, licensing and other activities, defined in Regulation 2 of, and Schedule 1 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, which have been reserved to the Council or delegated to the Planning Development Control, General Purposes and Licensing, Appeals or other Committees appointed by the Council.
- d. Those matters specified in Regulations 4 and 5 of, and Schedules 3 and 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 where the final decision in respect of those matters rests with the Council.
- e. Those matters delegated to the Standards Committee.



- f. Those plans and strategies set out in Annex 2 (***including any plans or strategies that full Council may agree should be added to the list in Annex 2***) where final approval and adoption will lie with the full Council.

(Recognises that the Annex 2 list is not static and can be added to or amended).

2. To appoint such Sub-Committees to undertake the functions within these Terms of Reference as it deems appropriate and to determine their powers and extent of delegated powers.
3. To delegate such of its functions as it deems appropriate to Area Committees of the Executive (if appointed) and officers of the Council.
4. To advise the Council on those activities and functions which should be delegated to Joint Committees or another Local Authority or which may be contracted out to any other person, Authority or organisation.
5. Where required by statute, or the Council's constitution, to consult with Review Panels, external bodies or others on policy and strategy proposals prior to implementation or submission of those proposals to Council
6. To consider and make decisions on Reports and Recommendations from its own Committees, Sub-Committees and Panels and from the Review Panels.

CONSTIT/SCH01.DOC  
July01

**Annex 1 to Schedule 1  
(extract)**

**FUNCTIONS ALLOCATED UNDER SECTION 11(2)(b) LOCAL GOVERNMENT ACT 2000 AND REGULATION 3 AND 4 OF THE LOCAL AUTHORITIES (FUNCTIONS AND RESPONSIBILITIES) REGULATIONS 2000**

**A. Regulation 3 (Schedule 2) Functions – Functions which may be (but need not be) the responsibility of an Authority's Executive**

<b>Function</b>	<b>Extent of Responsibility</b>
1. Any matter under a local Act	1. (i) To respond to any consultations.  (ii) To take any action subject to compliance with the Council's approved policies and budgets.
<del>2. Appointment of Review Boards under Regulations under Sub-section (4) of Section 34 (determination of claims and reviews) of the Social Security Act 1998.</del>	<del>2. (i) To compile a list of Councillors willing to serve on the Review Boards and to submit that list to the full Council to enable a Panel of Councillors from whom members of each Review Board will be selected.</del>  <u><i>No longer a function for local authorities - responsibility has been transferred to Department of Social Security</i></u>
3. To conduct Best Value Reviews under the Local Government Act 1999 and any Regulations and Orders made thereunder.	3. To have overall responsibility for Best Value Reviews and to conduct individual reviews in conjunction with the appropriate Review Panel.
4. Discharge of any functions relating to contaminated land.	4. To have overall responsibility for discharging functions under Part IIA of the Environmental Protection Act 1990 and its subordinate legislation subject to prior consultation with the Planning Development Control Committee where such action may affect that Committee's duties and where appropriate the relevant Portfolio Performance and Review Panel.
5. To discharge of any function relating to control of pollution or management of air quality.	5. To take any action subject to compliance with the Council's approval policies and budgets.

## DELEGATIONS FROM COUNCIL TO CABINET, COMMITTEES AND PANELS

1. The powers and duties of the Council set out in the second column of the Schedule below shall be executed and performed by, and are hereby delegated to the ~~Cabinet~~, respective Committees and Panels of the Councils as set in the first column of the Schedule, until such time as this obligation shall be revoked or amended by resolution of the Council.
2. Where any proposal implies or requires the introduction of a new **policy or strategy** or the variation of an existing policy **or strategy (within the meaning of paragraph 6.9 of the Constitution)**, or would be expected to result in a variation of the approved budget in excess of any variation permitted by Financial Regulations the proposals shall be submitted to Council with a recommendation for consideration. Where any proposal is made by a Committee or Panel and relates to the executive functions of the Cabinet the matter shall be referred to the Cabinet before it is considered by Council.  
  
*Words inserted for consistency between this paragraph and the main Constitution on definition of matters reserved to full Council.*
3. This Scheme of Delegations shall not extend to powers, duties or functions with respect to the levying of the Council Tax nor for levying or issuing a rate or precept for a rate, nor to the borrowing of money, nor to any powers, duties or functions for which the Council must retain responsibility.
4. Notwithstanding the foregoing, in the event of war or a national defence emergency declared by the Crown or HM Government, all the powers, duties and functions of the Council without reservation are hereby delegated to ~~the Cabinet~~, which **the Chief Executive, who** shall have authority and power to delegate such powers, duties and functions to a Sub-Committee.

### THE SCHEDULE

<b><i>CABINET, COMMITTEE AND PANELS</i></b>	<b>POWERS, DUTIES OR FUNCTIONS DELEGATED</b>
Gabinet	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for the Cabinet.

Review Panels	All the powers, duties and functions as contained, mentioned or referred to generally in the Terms of Reference of each of the Panels.
Standards Committee	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.
Planning Development Control Committee	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.
	Except where, in respect of an application made on behalf of the Council, the Committee is unwilling to approve an application, or wishes to impose conditions which are unacceptable to the applicant, the application shall be submitted to a meeting of full Council for determination, the report for which shall be prepared by the Director of Environment Services.
Industrial Relations Committee	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee.

## Appeals Committee

All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions which are described generally and specifically in the Terms of Reference of the Committee and the Authority to initiate, hear and determine on behalf of the Council, any appeals against decisions of the Executive, Committees or Officers.

Cabinet does not derive its power to make decisions from Council, but from the legislation. Council has no power under the law to delegate to Cabinet. Legislation specifies which decisions shall be taken by Council (or under delegated powers on its behalf by a proportionally appointed Committee or Sub-Committee or by officers), and which shall be taken by Cabinet (or on its behalf by a Cabinet Sub-Committee, Portfolio Holder, or officers). Council can only delegate decisions on functions reserved to it.

Paragraph 4. on page 1 above used to be a delegation to Policy and Resources Committee. In view of the new legislative constraints mentioned immediately above, and the fact that in the event of a national emergency it might not be possible for Cabinet to meet, it is considered that it would be more practicable (and in accordance with legislation) to delegate all functions to the Chief Executive in these circumstances.

## APPENDIX 8

### Schedule 7

#### PROTOCOL FOR EXECUTIVE DECISION MAKING

##### 1. INTRODUCTION

1.1 The Leader and individual Portfolio Holders, and officers, are authorised to take certain executive decisions under the Terms of the Council's Constitution. This Protocol identifies the responsibilities and processes to be followed in carrying out those tasks.

1.2 This Protocol applies to:

decisions made by the Cabinet;

**decisions made by individual Portfolio Holders under delegated powers; and**

key decisions made by officers under delegated powers.

##### 2. ACTION PRIOR TO REACHING A DECISION - CABINET

**2.1 The provisions of Standing Orders for Meetings relating to convening meetings and issue of documentation shall apply to all meetings of the Cabinet.**

##### 3. ACTION PRIOR TO REACHING A DECISION – PORTFOLIO HOLDERS

3.1 In all cases, prior to taking any decision on any matter, the Portfolio Holder shall be responsible for:-

- (i) ensuring that the decision to be made is within his/her delegated powers;
- (ii) obtaining, in writing (which may be transmitted electronically) a summary of the issues from the Head of Service responsible for the matter under consideration;
- (iii) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's strategies, policies and budgets;
- (iv) determining whether the proposed action has any effect on the responsibilities of other Portfolio Holders;
- (v) ensuring that where the matter affects a specific part of the District Council's area, the views of the relevant Ward Members, and where appropriate, the local Parish or Town Council's views have been obtained and taken into account in reaching a decision; and
- (vi) if the decision is a key decision:

- a) ensuring that details of the subject of the decision are contained in the relevant forward plan for consideration at that time, and if they are not that the relevant provisions of Schedule 8 to this Constitution are followed;
- b) ensuring that any report or other written information that he/she intends to take into consideration when he/she makes the decision was available for public inspection as soon as reasonably practicable after he/she received it, and has been so available for at least three clear working days before the decision is made; and
- c) ensuring that any report or other written information that he/she intends to take into consideration when he makes the decision has been forwarded to the Chairman of the relevant Review Panel.

3.2 Where any matter considered by a Portfolio Holder:-

- (i) is outside his/ her delegated powers;
- (ii) is outside the legal powers of the Council or contrary to the Council's strategies, policies or budgets;

the matter shall stand referred to the Cabinet for consideration. No action that commits the Council shall be taken on that matter until after the issue has been determined by the Cabinet. EXCEPT that where a decision which does not comply with the Council's strategies or policies, or would not be wholly in accordance with the budget, or is a key decision which a forward plan does not specify is for decision at that time, is required urgently, that matter may be determined in accordance with the provisions of Schedule 8 to this Constitution.

3.3 Where a decision would have an effect on the responsibilities of another Portfolio Holder or has implications which might affect the corporate strategies of the Council, the Portfolio Holder shall consult with any other Portfolio Holder and the Leader prior to reaching any decision.

#### **4. ACTION PRIOR TO REACHING A KEY DECISION – OFFICERS**

4.1 In all cases, prior to taking a key decision on any matter, the Officer shall be responsible for:-

- (i) ensuring that the decision to be made is within his/her delegated powers;
- (ii) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's strategies, policies and budgets;
- (iii) ensuring that details of the subject of the decision are contained in the relevant forward plan for consideration at that time, and if they are not that the relevant provisions of Schedule 8 to this Constitution are followed;
- (iv) ensuring that any report or other written information that he intends to take into consideration when he makes the decision was available for public inspection as soon as reasonably

- practicable after he received it, and has been so available for at least three clear working days before the decision is made;
- (v) ensuring that any report or other written information that he intends to take into consideration when he makes the decision has been forwarded to the Chairman of the relevant Review Panel; and
  - (vi) ensuring that where the matter affects a specific part of the District Council's area, the views of the relevant Ward Members, and where appropriate, the local Parish or Town Council's views have been obtained and taken into account in reaching a decision.

## 5. ACTION AT POINT OF DECISION MAKING – PORTFOLIO HOLDERS

5.1 In reaching a decision on any matter referred to him/her the Portfolio Holder shall:-

- (i) take into consideration the views expressed by the Head of Service responsible for the matter under consideration;
- (ii) where appropriate, take account of the views of other Portfolio Holders, the Leader, the Ward Members and the local Parish or Town Council;
- (iii) endorse the written documentation prepared by the appropriate Head of Service with his/her decision and where that decision is contrary to the Officer's recommendation or views submitted by the Ward Member or local Town or Parish Council, the reasons for reaching the different conclusion; and
- (iv) endorse all written documentation giving options considered with the reasons why particular options were rejected.

## 6. ACTION AFTER DECISION - CABINET

6.1 As soon as reasonably practicable after a meeting, the Chief Executive **or Monitoring Officer** shall ensure that a written statement that includes the information set out below is produced in respect of every decision made at that meeting:

Under section 7 of the covering report, it is proposed that both the Chief Executive and the Monitoring Officer should be Proper Officers for this (and other) purposes relating to access to information. In the majority of cases action will be undertaken by the Chief Executive's or Monitoring Officer's staff, but in certain circumstances it might be necessary for the assigned Proper Officer him/herself to take action or accept responsibility. If only one person was designated as Proper Officer problems could arise if that person was not available.

- (i) a record of the decision;
- (ii) a record of the reasons for the decision;
- (iii) details of any alternative options considered and rejected by the Cabinet at the meeting;
- (iv) a record of any conflict of interest in relation to the matter decided which is declared by any member of the Cabinet; and



- (v) in respect of any declared conflict of interest, a note of any dispensation granted by the Standards Committee.

6.2 The Chief Executive **or Monitoring Officer** shall also:-

- (i) maintain copies, which may be held electronically, of all the reports and supporting papers taken into account by the Cabinet in making a decision;
- (ii) make the notice prepared under 6.1, the reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours; and
- (iii) make the notice, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours. No charge shall be made for inspection of such papers.

## 7. ACTION AFTER DECISION – PORTFOLIO HOLDERS

7.1 On reaching a decision the Portfolio Holder shall:-

- (i) give instructions to the appropriate Head of Service to take the necessary action to implement the decision;
- (ii) personally, or arrange for the ~~appropriate Head of Service~~ **proper officer** to, notify Members of the decision taken;

*at least initially, notification will be undertaken by the proper officers appointed for the purpose of the Access to Information Regulations (the Chief Executive/Monitoring Officer or their staff). In due course, as the processes become more familiar, it should be possible to designate Heads of Service as proper officers for notifying decisions*

- (iii) ensure that the decision is not implemented until such time as the period for, and the conditions of, the Protocol on call-in arrangements for decisions taken by the Executive have been complied with; and;
- (iv) supply a copy of all papers (which may be transmitted electronically) considered by him/her to the Chief Executive – together with a copy of the decision with reasons.

7.2 Upon notification of a decision, the Head of Service will:-

- (i) subject to compliance with the Protocol on call-in arrangements at Schedule 9, ensure implementation within any specified time scales and, if none given, within a reasonable period;
- (ii) ensure that a copy of the decision and appropriate supporting papers are placed on the relevant file;
- (iii) where instructed by the Portfolio Holder to arrange for a report on the decision taken to be circulated to all Members of the Council.
- (iv) immediately notify Parish & Town Councils, together with any other persons or organisations, consulted about the proposals, of the decision taken.

7.3 As soon as reasonably practicable after a decision is taken the Chief Executive **or Monitoring Officer** shall ensure that a written statement that includes the information set out below is produced in respect of that decision:-

- (i) a record of the decision
- (ii) a record of the reasons for the decision;
- (iii) details of any alternative options considered and rejected at the time by the Portfolio Holder when he made the decision;
- (iv) a record of any conflict of interest in relation to the matter decided which was declared by any Cabinet member who the Portfolio Holder making the decision consulted; and
- (v) in respect of any declared conflict of interest, a note of any dispensation granted by the Standards Committee.

7.4 The Chief Executive **or Monitoring Officer** shall also:-

- (i) maintain a register or registers, which may be held in electronic form, of decisions taken by Portfolio Holders under delegated powers;
- (ii) maintain copies, which may be held electronically, of all the reports and supporting papers provided by the Portfolio Holder;
- (iii) make the notice under 7.3, the register, reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours; and;
- (iv) make the notice, register, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Councils main office during normal office hours. No charge shall be made for inspection of such papers.

## **8. ACTION AFTER KEY DECISION – OFFICERS**

8.1 As soon as reasonably practicable after an officer has made a key decision, he or she shall produce a written statement that includes the information set out below:-

- (i) a record of the decision;
- (ii) a record of the reasons for the decision;
- (iii) details of any alternative options considered and rejected by him or her at the time he or she made the decision;
- (iv) a record of any conflict of interest in relation to the matter decided which was declared by any Cabinet member who the officer consulted; and
- (v) in respect of any declared conflict of interest, a note of any dispensation granted by the Standards Committee.

8.2 The Chief Executive **or Monitoring Officer** shall:-

- (i) maintain a register or registers, which may be held in electronic form, of key decisions taken by officers under delegated powers;
- (ii) maintain copies, which may be held electronically, of all the reports and supporting papers taken into account by an officer in making a key decision;
- (iii) make the notice under 8.1, the register, reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours; and
- (iv) make the notice, register, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours. No charge shall be made for inspection of such papers.

## 9. KEY DECISIONS – REVIEW PANELS

9.1 If a decision is taken that was not treated as a key decision, but the relevant Review Panel considers that it was a key decision, the Review Panel may require the Cabinet, or the person responsible for the decision, within a reasonable period specified by the Panel, to submit a report to the Council setting out:-

- (i) the decision and reasons for it;
- (ii) the body or individual who took the decision; and
- (iii) why it was not considered a key decision.

This is in addition to any other rights of Review Panels in relation to executive decisions contained elsewhere in this Constitution.

## 10. URGENT DECISIONS

10.1 Where in the opinion of the Head of Service and the Monitoring Officer, a decision ~~within policy and budget, and which is not a key decision,~~ is required urgently on any matter, whether by the Cabinet or delegated to a Portfolio Holder, the requirements :-

*Removal of words struck through enable the conditions in 10.1 regarding abbreviated consultation and implementation before call in time limits have expired to apply to **all** decisions by Cabinet or Portfolio Holders. 10.3 below ensures that the more stringent provisions in Schedule 8 regarding notifying Review Panel Chairmen etc **also** apply to urgent decisions outside policy and budget, or urgent key decisions.*

- (i) relating to the information, and (in the case of Portfolio Holder decisions) decision being in writing or electronic form;
- (ii) relating to consultations with Ward Members and where appropriate the local Parish or Town Council;

shall apply only if there is sufficient time to follow these procedures without prejudicing the decision or the Council;

provided that as soon as practicable after the matter has been determined, a written record of the issues and the action taken shall be made and circulated in accordance with the remaining provisions of this Protocol; and

- (iii) paragraphs 3.1 to 3.8 of Schedule 9, so far as they relate to the date on which the decision may be implemented, shall not apply, and the decision may be implemented immediately.

**10.2 *Where a Portfolio Holder makes a decision urgently and is unable to endorse any written documentation at the time of making the decision as required in paragraph 5.1 above, he shall instead endorse, as soon as reasonably practicable, the written statement prepared under paragraph 7.3 above.***

*Without this provision, there would be no proof that the Portfolio Holder had ever made the decision.*

- 10.23 Where a decision which is not within policy or budget, or is a key decision which a forward plan does not specify is for decision at that time, is required, the provisions of the Protocol at Schedule 8 to this Constitution shall apply.

## **11. VARIATION OF PROTOCOL**

- 11.1 This Protocol may be varied by a resolution of the Council upon a recommendation from the Cabinet. No such recommendation shall be made until the Cabinet has consulted the Standards Committee, Review Panels and other Committees of the Council.

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## APPENDIX 9

### Schedule 8

#### PROTOCOL – URGENT DECISIONS OUTSIDE POLICY AND/OR BUDGET, AND URGENT KEY DECISIONS

##### 1. INTRODUCTION

1.1 The ~~Cabinet~~ **Executive** has been empowered, subject to compliance with the Council's policies and budgets, to make decisions on behalf of the Council in accordance with the provisions of this Constitution.

*"Executive" can include individual Portfolio Holders or officers taking executive decisions under delegated powers*

1.2 This Protocol describes the procedures to be followed where a decision which:

does not comply with Council policy or budget; or  
is contrary to or not wholly in accordance with policy and

budget; or

is a key decision which it was impracticable to include in a forward plan, or which is included in a forward plan but is scheduled for decision at a later date or time (an "urgent key decision"),

is required urgently.

1.3 Where any decision will give rise to expenditure exceeding £20,000 (or such other sum as may be prescribed from time to time in financial regulations) no action shall be taken to implement that decision until the matter has been considered by Council.

1.4 In **section 2 of** this Protocol the expression 'Cabinet' refers to the Cabinet, a Committee or Sub-Committee of the Cabinet or to the appropriate Portfolio Holder where any powers have been delegated, ~~and, in relation to key decisions, to any officer planning to make the decision under delegated powers.~~

*Above definition is correct for section 2, but section 3 and 4 specify whether certain actions are the responsibility of the Cabinet as a whole, or the individual decision maker where a decision is made under delegated powers*

## 2. URGENT DECISIONS OUTSIDE POLICY OR BUDGET - ACTION PRIOR TO DECISION

2.1 Where it appears to the Cabinet that a decision, which is outside the Council's approved policies or budget, is required urgently and it is not reasonable to delay the decision making to the next or a special meeting of the Council, the Cabinet shall:-

- (i) Obtain confirmation from the Chief Executive, the Monitoring Officer and other appropriate professional advising Officer, that a decision is required urgently<sup>1</sup>;
- (ii) Carry out, so far as is reasonable, consultations with Ward Members and other Stakeholders<sup>1</sup>; and
- (iii) Consult with the Chairman of the Review Panel whose terms of reference relate to such function, on the need for action to be taken urgently.

2.2 In the event of a matter affecting more than one Review Panel, the Chief Executive **or Monitoring Officer** shall determine which Chairman shall be consulted.

Under legislation, procedures for urgent decisions outside policy or budget do not require action to be taken by a designated Proper Officer. Procedures for urgent key decisions (section 3 below) however do. The note to the first proposed amendment at section 3 explains why it is considered that both the Chief Executive and the Monitoring Officer should be empowered to take the necessary action. For consistency, it is considered that similar procedures should apply to section 2 of this Chapter.

2.3 Where the Chairman of the Review Panel is not available for whatever reason, the Chairman of the Council, or in his/her absence, the Vice-Chairman of the Council shall be consulted.

2.4 Where the Chairman of the Review Panel, or in his/her absence, the Chairman or Vice-Chairman of the Council, as the case may be, agrees in writing that the decision is urgent, the Cabinet shall be empowered to implement such decision.

2.5 For the purposes of this paragraph, consultations may be made:-

In writing,  
Electronically, or  
Orally,

depending upon the need to ensure effective and timely decision making. ~~but in all cases a written record of the decision, all options considered and the reasons why the decision was required urgently, shall be made by the Cabinet to Council.~~

Moved to section 4 and combined with that section and paragraph 3.6

2.6 If the decision is an urgent key decision, as well as a decision outside policy or budget, section 3 below also applies.

### 3. URGENT KEY DECISIONS – ACTION PRIOR TO DECISION

3.1 Where it appears to the Cabinet, or a Portfolio Holder or officer with delegated powers to make the decision, that a decision which is:

***a key decision that it has proved impracticable to include in a forward plan; or***

***a key decision that is included in a forward plan, but is scheduled for decision at a later date or time***

is required urgently, and it is not reasonable to delay the decision until it can be included in a forward plan, the following action shall be taken:

(i) The Chief Executive ***or Monitoring Officer*** shall inform the Chairman of the relevant Review Panel, by notice in writing, of the matter about which the decision is to be taken;

*Under section 7 of the covering report, it is proposed that both the Chief Executive and the Monitoring Officer should be Proper Officers for this (and other) purposes relating to access to information. In the majority of cases action will be undertaken by the Chief Executive's or Monitoring Officer's staff, but in difficult or contentious cases it might be necessary for the assigned Proper Officer him/herself to reach a decision. If only one person was empowered to reach such a decision problems could arise if that person was not available.*

(ii) The Chief Executive ***or Monitoring Officer*** shall make a copy of the written notice in (i) available for public inspection at the Council's offices;

(iii) The Cabinet, Portfolio Holder, or officer, as appropriate, shall take the decision only after three clear working days have elapsed after the notice in (ii) has been available for public inspection.

3.2 For the purpose of paragraph 3.1, in the event of a matter affecting more than one Review Panel, the Chief Executive ***or Monitoring Officer*** shall determine which Chairman shall be consulted. Where the Chairman of the Review Panel is not available for whatever reason, the Vice-Chairman of the relevant Review Panel shall be consulted.

3.3 If, exceptionally, it is impracticable to comply with the requirements of paragraph 3.1, the decision may only be taken if the decision maker has obtained agreement from the Chairman of the relevant Review Panel that the decision must be made urgently and cannot reasonably be deferred.

3.4 For the purpose of paragraph 3.3, in the event of a matter affecting more than one Review Panel, the Chief Executive ***or Monitoring Officer*** shall determine which Chairman shall be consulted.



3.5 For the purpose of paragraph 3.3, where the Chairman of the Review Panel is absent or unable to act for whatever reason, the Chairman of the Council, or in his/her absence, the Vice-Chairman of the Council, shall be consulted.

3.6 For the purposes of paragraphs 3.3 to 3.5, consultations may be made:-

In writing,  
Electronically, or  
Orally,

depending upon the need to ensure effective and timely decision making, ~~but in all cases a written record of the decision, all options considered and the reasons why the decision was required urgently, shall be made by the Cabinet to Council.~~

Moved to section 4 and combined with that section and paragraph 2.5

3.7 If the decision is outside policy or budget, as well as an urgent key decision, section 2 above also applies.

#### 4. ACTION AFTER DECISION

4.1 As soon as reasonably practicable after a decision has been made under the provisions of this Protocol, the person or body responsible for taking the decision must provide a written report to the full Council explaining:-

- (i) The decision;
- (ii) The reasons a decision was required;
- (iii) The reasons why the decision was required urgently, and **(in the case of a decision outside policy or budget)** could not have been brought to the Council for determination; and
- (iv) The manner, timing of consultation and office of person consulted prior to the decision being taken.

**4.2 Where the decision was made by an officer under delegated powers, the written report in 4.1 shall be referred to the Cabinet and then to the Council.**

Clarifies responsibility for reporting urgent decisions to Council. (Note: legislation places responsibility for reporting urgent decisions outside policy or budget to Council on the person/body who made the decision, and responsibility for reporting urgent key decisions to Council on the Leader)

## 5. VARIATION OF PROTOCOL

5.1 This Protocol may be varied by resolution of the Council upon a recommendation from the Cabinet. No such recommendation shall be made until the Cabinet has consulted the Review Panels.

<sup>1</sup>These provisions currently conflict with the Draft Statutory Guidance which requires no consultations with Officers or other Members/Stakeholders. The Council has suggested that the Statutory Guidance should be amended to reflect the need for this type of consultation even for urgent decisions. These Paragraphs will, therefore, need revisiting once the final Statutory Guidance is available.

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**PORTFOLIO HOLDER – POLICY AND STRATEGY (LEADER)**

**A) MAIN ROLE**

To take collective responsibility for those issues determined by Cabinet under its Terms of Reference and Scheme of Delegation.

**B) GENERAL PERSONAL RESPONSIBILITIES**

Be the principal political adviser for the services included within the Portfolio for which the Cabinet Member has been appointed the Portfolio Holder, and within any constraints imposed by legislation, approved Council policy and budgets and the Council's Scheme of Delegation be responsible for:-

- 1) Maintaining an understanding of the issues involved in the delivery of services.
  - 2) Being apprised of developing issues and policies at District, County, Regional and National levels.
  - 3) Giving direction on and ensuring the development of the vision for the services, strategies and policies consistent with the overall strategic approach of the Council.
  - 4) Promoting and improving the economic, social and environmental well-being of the District.
  - 5) Balancing the social, environmental and economic components of sustainability in the development of services and their delivery.
  - 6) Liaising with other Portfolio Holders and in particular developing arrangements to ensure clear linkages with cross-cutting issues being addressed by, or affecting, the Council, and reporting thereon to Cabinet.
  - 7) With regard to the preparation, amendment and revision of any statutory or non-statutory strategic, technical or service plans:-
    - i. Identify the strategic or service objectives;
    - ii. Promote the principal policy issues to be included;
    - iii. Ensure adequate arrangements are in place to fully involve all Councillors, employees where appropriate, residents and all other stakeholders in the preparation and reviews of any plans;
    - iv. Identify and take full account of any cross-cutting issues;
    - v. Make provision to disseminate the content and implications of any proposed or adopted plans throughout the District, and where appropriate regionally and nationally;
    - vi. Ensuring implementation and regular reviews.
- 8) Defining the standards of service, targets and budgets to include:-
  - i. Preparation of schemes for implementation or proposals for submission to Cabinet and Council as part of the expenditure plan process;
  - ii. Monitoring service standards, performance and budgets and initiating action to meet service, performance and budget targets;

- iii. The content and implementation of action programmes to achieve the aims of adopted strategies and service plans;
- iv Being responsible for the efficient delivery of services;
- v. Implementing changes to meet requirements of legislation;
- vi. ~~Approving the level of fees chargeable for Council services and any variations thereto;~~

## TERMS OF REFERENCE - REVIEW PANELS

1. The statutory overview and scrutiny functions of the Council shall be undertaken by Review Panels. Each Panel shall have a particular responsibility for the overview and scrutiny of the functions undertaken for the following Portfolios within the Cabinet:-

Policy and Strategy, and Finance and Support

Crime and Disorder

Environment

Housing, **and Health and Social Exclusion**

Subject to approval of recommendation at paragraph 4.1 of covering report

Economy and Planning

Leisure

2. For those matters being the responsibility of the Cabinet relating to the functions of the Portfolio(s) for which each Panel has been established:-
  - (i) To prepare an annual programme of reviews each year for approval by the Council.
  - (ii) To consider such policy and strategy proposals as are referred to it by the Council and the Cabinet and to report back the result of its considerations with reasons to the referring body.
  - (iii) To consider the proposals for revenue and capital budgets which comply with the financial strategy approved by the Council for recommendation to the Cabinet.
  - (iv) To review how and to what effect Council policy and strategy is being implemented by the Cabinet, Portfolio Holders and Officers and to make reports and recommendations, including proposals for changes to policies and practices to, the Council, the Cabinet, Portfolio Holders and Officers,<sup>1</sup> as appropriate.
  - (v) To review performance against annual budgets, including budget profiles and to report thereon to the Council, Cabinet or Portfolio holders as appropriate.

- (vi) To review the 'called in' decisions of or action taken by the Cabinet, Portfolio Holders and Officers acting under delegated powers and report the outcome of each review to the Council, the Cabinet, Portfolio Holders and Officers, as appropriate.<sup>2</sup>

- ~~(vii) To review decisions or action taken in respect of any functions which are not the responsibility of the Executive on (with the exception of development control, licensing and other regulatory matters as determined by the Chief Executive), and to make reports and recommendations in respect of such functions.~~

*This paragraph amended and moved to new paragraph 3 below. Subsequent sub-paragraphs to be re-numbered.*

- (viii) To undertake, in conjunction with the Cabinet and/or its Members, reviews of service performance under the Best Value regime.
- (ix) To review departmental performance outside the Best Value regime and to make such reports and recommendations as it considers appropriate.<sup>3</sup>
- (x) To undertake reviews of services provided by other agencies and which affect the economic, social and environmental well-being of the Council's area.
- (xi) To review the Council's involvement and support to outside organisations that fall within these Terms of Reference.
- (xii) To receive and review external audit reports which relate to matters within these Terms of Reference, and
- (xiii) To receive representatives and/or deputations from any area structures implemented by the Council or relevant groups of interest, and to report to the Council, the Cabinet, Portfolio Holders and Officers, as appropriate.<sup>4</sup>
- (xiv) To make recommendations to the Cabinet and Council on estimates of expenditure and the budget required to enable the Panel to undertake its functions.
- (xv) To make reports or recommendations to the Council or the Executive in respect of any functions which are not the responsibility of the Executive;
- (xvi) To make reports or recommendations to the Council or the Executive in respect of matters which affect the Local Authority's area or its inhabitants;
- (xvii) To appoint a member or members to represent the Panel in the Scoping, Assessment of Cabinet Decision, Verification, and Action Planning and Report stages of the Best Value process.
- (xviii) To consider whether decisions taken by the executive which were not treated as key decisions should have been so treated, and to require the executive to prepare a report to the Council in appropriate cases as set out in Schedule 7 to this Constitution.

**3. *The following Review Panels may review decisions or action taken in respect of those functions that are not the responsibility of the executive, to the extent stated in this paragraph:***

<b>Review Panel</b>	<b>Functions</b>
<b>Corporate and Finance</b>	<p><i>All functions within the terms of reference of the Standards Committee, except: Consideration of any matters referred to it by the National Standards Board following an investigation by Ethical Standards Officers; consideration of complaints against Cabinet members who fail or refuse to attend meetings of the Review Panels when requested to do so; and consideration of complaints against members by the Standards Panel.</i></p> <p><i>All functions within the terms of reference of the General Purposes and Licensing Committee, except: Determination of any application for any consent, licence, certificate, permit, registration or the like; functions under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974; and responses to consultations on issues relating to sea fisheries.</i></p>
<b>Environment</b>	<p><i>The following functions within the terms of reference of the General Purposes and Licensing Committee: functions under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974; and responses to consultations on issues relating to sea fisheries.</i></p>
<b>Economy and Planning</b>	<p><i>The following functions within the terms of reference of the Planning Development Control Committee: responding to Cabinet consultations in the preparation of Development Plans; responding as consultees on issues relating to the protection of the rights of public use of highways, maintenance and review of the definitive map and statement of footpaths and bridleways, reclassification of roads used as public paths, and limestone pavement orders; recommendations to Council on budgetary matters; delegation of functions to officers; and responding to consultations on behalf of the Council on matters falling within that Committee's terms of reference.</i></p>



Right to review non-executive functions was previously worded in a very general fashion without specific functions being assigned to specific Panels. Functions are now allocated to appropriate Panels. (Some matters within Committees' terms of reference are excluded because no Panel is entitled to review individual decisions on development control, licence applications, or similar "quasi-judicial" decisions relating to individuals).

**4. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Panel to an officer of the Council.**

<sup>1</sup>Officers" refers to The Chief Executive, Directors and other Chief Officers.

<sup>2</sup>The decisions of Regulatory Panels and Officers to whom a function has been delegated by a Regulatory Panel, or where an appeal lies to a Regulatory Panel, are excluded from the Panels Terms of Reference.

<sup>3</sup>Such a review may be a general review of the whole or part of a department or may be a specific review of the department's progress against a particular plan, for example a Best Value Improvement Plan.

<sup>4</sup>The Scrutiny Panel would decide what further enquiries or action was appropriate to deal with the issues raised by the deputation. This could include a full review or a referral to the Cabinet or Council with recommendation as to an appropriate course of action.

(January 2001)

**TERMS OF REFERENCE**

**APPEALS COMMITTEE**

1. To agree procedures, including arrangements for persons affected to be heard by a panel of Members, for the determination of appeals or objections against decisions of the Executive, Committees or Officers in respect of the areas set out below.

Provided that the procedures shall specify that no member shall sit on a Panel that determines an appeal or objection if that member was present at a meeting of the Executive or a Committee that considered the matter about which the appeal or objection has been made.

2. Subject to any criteria and in accordance with any procedures the Council and the Committee might set, to determine, through Panels of up to five Members of the Committee, as determined by the Chief Executive ~~(or in the case of Housing and Council Tax Benefit matters the Clerk to the Benefit Review Boards)~~ appeals or objections against decisions of the Executive, Committees or Officers in respect of the following:-

**a. Discipline and grievance**

- (i) Disciplinary issues that have to be dealt with by Councillors in accordance with the provisions of the Council's Disciplinary Rules.
- (ii) Appeals by employees that have to be dealt with by a Panel of Councillors under the provisions of the Council's grievance procedure.
  - (iii) Appeals by employees selected for redundancy under the Council's policy for redundancy.

**b. Tree Preservation Orders**

Objections to the making of Tree Preservation Orders, including the power to confirm, modify or not to confirm Orders.

**c. Housing Matters**

Appeals or requests for review of decisions in respect of tenancies, right to buy, improvement, renovation or other grants, **discretionary housing payments**, homelessness matters, or possession proceedings in cases where they tenant is above the statutory retirement age.

New legislation requires Councils to decide these payments

**d. Non-Domestic Rate Relief**

Appeals against decisions by the Portfolio Holder in respect of applications for discretionary relief from non-domestic rates.

**e. Licensing Matters**

Where there is no specific statutory right of appeal to external bodies, to determine appeals against any decisions of Officers in relation to the grant, renewal, transfer, variation, refusal, revocation, suspension or imposition of conditions of licences granted by the Council.

~~3. To perform, through a Panel of three Members of the Committee, all of the powers, duties and functions of a legally constituted Housing Benefit Review Board.~~

~~4. To perform, through a Panel of three Members of the Committee, all of the functions of a legally constituted Council Tax Benefit Review Board.~~

5. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Committee to an officer of the Council.
6. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.

Words deleted as Review Boards are no longer a local authority function - responsibility has been transferred to the Department of Social Security

## APPENDIX 13

### Schedule 17 (extract)

#### PROTOCOL

## REVIEW PANELS – OPERATIONAL RIGHTS AND RIGHTS OF ACCESS TO INFORMATION

### 1. INTRODUCTION

1.1 This Protocol defines the operational rights and the rights of access to information to be afforded to the Review Panels. It is to be read in conjunction with and is supportive of other elements of the Council's Constitution.

1.2 For the purposes of this Protocol, the following definitions shall apply:-

- Council – means all Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972;
- Cabinet – means the formal body within the Council defined as the Executive under the Local Government Act 2000;
- Committees – means the Standards Committee, the Planning Development Control Committee, the General Purposes and Licensing Committee and any other Committees comprising of only Councillors as voting Members established by the Council to undertake any of its functions.
- Corporate Plans – means the Council's Corporate Plan, Best Value Performance Plan, Community Plan and such other similar documents and policies as the Council may determine should be prepared;
- Prepare – includes the initial preparation, review, amendment or any modification thereof, of any document or papers relating to Corporate Plans, policies or budgets;
- Budgets – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax.

## 5. ATTENDANCE OF EXECUTIVE COUNCILLORS AT PANEL MEETINGS

5.1 In consideration of any decision taken by the Executive, Panels shall have the absolute right to require the decision-maker, or a Member of the Cabinet where the decision was taken in a Cabinet meeting, to attend any meeting called to review the decision of the Executive. ***Where it is not reasonable to expect an individual decision-maker himself or herself to attend the meeting:***

- a. ***where the decision was made by a Portfolio Holder, another member of the Cabinet; or***
- b. ***where the decision was made by a officer, a member of the Cabinet or another officer to whom the decision-maker reports,***

***shall attend on the decision-maker's behalf.***

*It may not be possible for an individual decision-maker, through no fault of his or her own, to attend a Panel meeting, for example through illness or absence from the area. When decisions are "called in" the Panels need to meet at short notice. It is therefore reasonable to allow for someone to attend as a representative of the decision-maker, of at least the seniority of the decision maker.*

5.2 A decision of the Executive shall not be implemented until such time as the Member of the Cabinet or its representative has attended a meeting of the Panel or the Panel has reported on the decision to the full Council at its next ordinary meeting.

5.3 A Panel may request copies of information or documents to enable it to review a decision of the Executive. If such papers have not been supplied at least two days prior to the meeting of the Panel, the Executive's decision shall stand deferred to a further meeting of the Panel which shall be arranged as soon as practicable.

## 6. ATTENDANCE OF OFFICERS AT PANEL MEETINGS

6.1 Each Panel shall be entitled to require any Officer to attend its meetings who:-

- (i) Took a decision on behalf of the Executive;
- (ii) Was involved in providing information to enable to decision to be reached by another Officer or by the Executive or has some material information that will assist the Panel in reviewing the decision.

**STANDING ORDERS FOR MEETINGS**

**1. Interpretation**

*In these Standing Orders –*

*“the 1972 Act” means the Local Government Act 1972, as amended*

*“Cabinet” means the formal Council body defined as the executive under the Local Government Act 2000*

*“Chief Executive” means the Head of the Council’s Paid Service*

*“Committee” means any Committee appointed by the Council*

*“he”, “him”, “his” and “himself” includes “she”, “her” and “herself”*

*“Leader” means the Councillor appointed by the Council to be its principal political leader*

*“Monitoring Officer” means the person appointed under section 5 of the Local Government and Housing Act 1989*

*“opposition group” means any political group, excluding the political group which contains the largest number of Council members*

*“Panel” means Review Panel (except where the term “Appeals Panel” is used)*

*“political group” means a group of Councillors who:*

*wish to associate together for the allocation of Committee and Panel places; and*

*inform the Chief Executive of that fact in writing*

*“portfolio” means an activity which is the responsibility of a single cabinet member*

*“portfolio holder” means the Councillor responsible for a specific portfolio*

*“Sub-Committee” means any group, whether or not called a Sub-Committee, which is appointed by the Cabinet, a Committee or Panel for specified purposes. (\*See Note for Guidance below)*

*“working day” means Mondays to Fridays, excluding days of public holiday; and a working day ends when the Council’s offices at Appletree Court, Lyndhurst close for normal business on that day*

*“writing”, under Standing Orders 14.1, 21 and 22 only, includes the use of electronic means to transmit information, providing that the person communicating with the Chief Executive by electronic means confirms that the communication has been received.*

*“year” means municipal year – that is the year starting with the Annual Council Meeting in May, and ending with the Annual Council meeting the following year.*

*\* Note for Guidance*

*When Sub-Committees are appointed they are generally termed “Sub-Committee”, “Working Party”, “Advisory Group” or “Consultative Group”, depending on their constitution and terms of reference.*

*The membership of Sub-Committees consists of Councillors, with voting rights and the power to make decisions.*

*The membership of Working Parties includes Councillors, and may also include non-Councillors. Working Parties have an investigative role to research and make recommendations, but no power to make decisions.*

*The membership of Advisory or Consultative Committees is made up of Councillors and non-Councillors. They have a continuous advisory role to a decision making body.*

## **APPOINTING AND ELECTING MEMBERS TO PARTICULAR POSITIONS**

### **2. Rules for Election/Appointment – Chairman, Vice-Chairman, Leader, Deputy Leader**

- 2.1 *The **Chairman of the Council** shall be elected at the Annual Council Meeting. This election shall be the first business for that meeting.*
- 2.2 *The **Vice-Chairman of the Council** shall be appointed by election at the Annual Council Meeting.*
- 2.3 *Any political group may submit to the Chief Executive nominations for the Chairman and Vice-Chairman of the Council for the following year. Nominations must be submitted at least 10 working days before the last Council meeting of the year. The Chief Executive shall report all nominations received to the last Council meeting of the year. That meeting shall make nominations to the next Annual Council Meeting.*
- 2.4 *The **Leader of the Council** shall be elected at the Annual Council Meeting. The Council may terminate the appointment at any time, as provided in the Council’s Constitution.*
- 2.5 *The Leader of the Council shall not be the Chairman or Vice-Chairman of the Council.*
- 2.6 *The Leader of the Council shall be the Chairman of the Cabinet.*
- 2.7 *The Leader of the Council shall appoint a **Deputy Leader of the Council from among the Cabinet members**, and notify the appointment to the Chief Executive, within 5 working days of the Annual Council Meeting.*

Words added for clarification

### **3. Constitution of Cabinet, Committees and Panels**

- 3.1 *At the Annual Council Meeting, the Council shall*
  - (a) *decide the number of Cabinet members; and*

(b) *decide the number, and content, of Cabinet portfolios.*

- 3.2 **At any Council meeting other than the Annual Meeting, the Council may, of its own volition or on a recommendation from the Leader of the Council communicated to the Chief Executive at least 10 working days before the date of the meeting, amend the number of Cabinet members and/or the content of Cabinet portfolios. The number of Cabinet members must comply with the limits laid down in legislation.**

Transferred from main Constitution document

- 3.3 *At its first Annual Council Meeting after the ordinary election of Councillors, the Council shall appoint Standing Committees and Panels with the following membership, and provide for their constitution:*

<b>Committee or Panel</b>	<b>Number of Members</b>
<i>Appeals Committee</i>	10
<i>General Purposes and Licensing Committee</i>	16
<i>Planning Development Control Committee</i>	20
<i>Standards Committee</i>	8
<i>Industrial Relations Committee</i>	8 members from Employers' Side <del>and a similar number from the Employees' Side</del> (plus one substitute Employers' Side member from each political group on the Committee)
<i>Corporate and Finance Review Panel</i>	10
<i>Crime and Disorder Review Panel</i>	10
<i>Economy and Planning Review Panel</i>	10
<i>Environment Review Panel</i>	10
<i>Housing, Health and Social Exclusion Review Panel</i>	10
<i>Leisure Review Panel</i>	10

*The Council may also appoint such other Committees as are approved under its Constitution.* **necessary to undertake its non-executive functions.**



Words amended for consistency with Constitution and to reflect legislation. Council do not appoint named Employees' Side representatives to IRC, but there is now provision for substitutes

**3.4 The Council may at any time:**

- a) terminate any Committee or Panel; or
- b) establish any further Committee or Panel it deems appropriate; or
- c) amend the terms of reference of any Committee or Panel,

subject to ensuring that all the Council's services and functions (apart from any non-executive functions specifically excluded under the Panels' general terms of reference) can be scrutinised by at least one Panel.

Transferred from main Constitution document

**3/1. Appointment of Cabinet Members**

*3/1.1 Each year the Leader shall appoint a portfolio holder for each of the Cabinet portfolios the Council approves. Each appointment shall be made and notified to the Chief Executive within 5 working days of the date of the Annual Council Meeting.*

*3/1.2 A portfolio holder shall not hold more than one portfolio at any time.*

**3/1.3 The Leader may at any time:**

- a) terminate the appointment of any Cabinet member and appoint a new member to that portfolio; or
- b) transfer Cabinet members between portfolios; or
- c) terminate the appointment of the Deputy Leader and appoint a new Deputy Leader from among the Cabinet members,

providing the number of Cabinet members and content of portfolios complies with that agreed by Council.

**3/1.4 Where any changes are made under 3/1.3 above, the Leader shall notify them to the Chief Executive immediately.**

**3/1.5 Where the Council amends the number of Cabinet members, and/or the content of Cabinet portfolios, under Standing Order 3.2, the Leader shall notify to the Chief Executive any consequential changes to individual Cabinet appointments within five working days of the Council's decision.**

Transferred from main Constitution document

#### **4. Appointment of Group Leaders, Committees and Panels**

4.1 *Subject to 4.2, each political group shall inform the Chief Executive in writing of:*

- a. *its name; and*
- b. *the name of its Leader*

*within 5 working days after the day of the ordinary election of Councillors.*

4.2 *Where a political group is formed later than 5 days after the day of the ordinary election of Councillors, the group shall inform the Chief Executive in writing of:*

- a. *its name; and*
- b. *the name of its Leader*

*as soon as practicable.*

**4.3 Subject to 4.4 below, a political Group may at any time terminate the appointment of its Leader and appoint a new Leader. It shall inform the Chief Executive immediately of the name of its new Leader.**

**4.4 If a group Leader whose appointment is terminated under Standing Order 4.3 is also the Leader of the Council, the termination of his appointment as group leader shall not affect his appointment as Leader of the Council. His appointment as Leader of the Council may only be terminated under the Procedure for Removing the Leader of the Council laid down in the Constitution.**

New Standing Order covers situation not currently catered for

4.5 *The group leader shall nominate to the Chief Executive members to serve on Committees and Panels.*

4.6 *A member appointed to a Committee or Panel shall normally hold office for the whole of his term of office as a Councillor. However, the Council may alter appointments at any time on the relevant Group Leader's recommendation.*

4.7 *In making appointments the Council shall ensure that as far as practicable the political composition of each Committee or Panel reflects the political composition of the Council. The following rules apply:*

**Rule 1.** *A political group which has a majority on the Council shall have a majority on each Committee and Panel.*

**Rule 2.** *If there is more than one political group, at least two groups shall have seats on each Committee and Panel.*

**Rule 3.** *Subject to Rules 1 and 2, the total number of seats for each political group on all Committees and Panels shall be, as nearly as possible, in proportion to the number of Council members in that group.*

**Rule 4.** *Subject to Rules 1, 2 and 3, the number of seats for each political group on each Committee and Panel shall be as nearly as possible in proportion to the number of Council members in that group.*

4.8 *Councillors who are not members of a political group shall be allocated Committee and Panel places as nearly as possible in proportion to the number of those members on the Council.*

4.9 *In allocating Committee and Panel places, regard shall be had to the desirability of achieving geographical representation on each Committee and Panel wherever appropriate. Competence should be the over-riding consideration.*

4.10 *The Leader and Cabinet members shall not be appointed to:*

*any Panel; or*

*any Panel Sub-Committees.*

4.11 *The Leader and Cabinet members may be appointed to the Appeals Committee Panel and/or to any of the Committees referred to in 3.3. (Subject to restrictions on Chairmanship and Vice-Chairmanship in Standing Order 7.5, 7.6 and 7.7).*

4.12 *Any alteration in Committee or Panel membership shall be made directly by the Council, on nominations submitted in accordance with this Standing Order.*

**4.13 Non-Councillors with particular skills or experience may be:**

**a) appointed to a Panel or Panels by the Council; or**

**b) co-opted onto a Panel by the appropriate Panel.**

**Such members, whether appointed by the Council or co-opted by the Panel, shall not be entitled to vote at Panel meetings.**

Transferred from main Constitution document

## **5. Appointment of Sub-Committees**

5.1 *The Cabinet, and every Committee and Panel the Council appoints, may appoint Sub-Committees. The Cabinet, Committee or Panel shall specify the purpose of each Sub-Committee, and the extent of its delegated powers.*

5.2 *A member appointed to a Sub-Committee shall normally hold office for the whole of his term of office as a Councillor. However, the appointing body may alter appointments at any time.*

5.3 *When appointing a Sub-Committee, the Cabinet, Committee or Panel may also appoint a named substitute member for each political group represented on the Sub-Committee. Substitute members for Cabinet Sub-Committees may only be appointed from among Cabinet members*

## **FIXING AND CONVENING MEETINGS, AND ISSUING DOCUMENTS BEFORE MEETINGS**

### **8. Council Meetings - Dates**

- 8.1 The Annual Council Meeting shall be held in May. The Council shall approve the date. The meeting shall be held at the Council's offices at Appletree Court Lyndhurst and shall start at 6.30 pm. The Council may decide on a different location or start time.
- 8.2 The Council shall decide the date, time and place for ordinary Council meetings.

### **9. Extraordinary Council meetings - Calling**

- 9.1 The Chairman of the Council may call an extraordinary meeting at any time.
- 9.2 Any five Council members may present a requisition to the Chairman to call an extraordinary Council meeting. If the Chairman either:
- (a) refuses to call an extraordinary Council meeting after a requisition for that purpose signed by five Council members has been presented to him; or
  - (b) does not call an extraordinary meeting within 7 days after the requisition has been presented to him

then on the Chairman's refusal, or on the expiration of the seven days, any five Council members may call an extraordinary meeting immediately. See also Standing Order 14.4.

### **10. Cabinet, Committee and Panel Meetings - Dates**

- 10.1 The Cabinet, each Committee and Panel shall fix dates and times for its meetings at least one year ahead.
- 10.2 *The Cabinet shall meet at least 12 times in each year.***

#### *Transferred from main Constitution document*

- 10.3 The Chairman of the Cabinet, Committee or Panel may for good reason alter the fixed date or time. As much notice as possible of any alteration shall be given to members of the Cabinet, Committee or Panel.
- 10.4 The Council may decide that some Cabinet, Committee or Panel meetings shall be held in the evenings. These meetings shall not start before 6.00 pm.

### **11. Special Cabinet Meetings - Calling**

- 11.1 The Chief Executive shall call a special Cabinet meeting:  
at any time at the request of:

the Leader of the Council; or

any four members of the Cabinet; or  
when an emergency or special circumstances arise.

## **12. Special Committee and Panel meetings - Calling**

12.1 The Chief Executive shall call a special Committee or Panel meeting:

at any time at the request of:

the Chairman of the Council; or

the Chairman of the Committee or Panel; or

any six members of the Committee or Panel; or

when an emergency or special circumstances arise.

12.2 A special Panel meeting shall not be called by the Chairman of the Council, or the Chairman of the Panel, for the purpose of calling in a Cabinet decision. (See Standing Order 13).

## **13. Special Panel Meetings – Calling**

13.1 The Chief Executive shall call a special meeting of a Panel for the purpose stated in 13.2 at any time at the request of any two members of that Panel.

13.2 A meeting under 13.1 shall be called to enable the Panel to review a Cabinet decision in accordance with the call-in procedures in the Council's Constitution. A Cabinet decision includes any decision made on its behalf under delegated powers (***apart from decisions by officers that are not key decisions***).

*Amended to reflect Constitution*

## **14. Convening Council Meetings**

14.1 The Chief Executive shall sign the summons to attend a Council meeting. The summons shall be sent to each member's usual place of residence (or to another address, in the case of a member who has notified the Chief Executive in writing that he desires his summonses to be sent to that address). The summons shall state the business to be transacted at the meeting.

14.2 A meeting shall not be invalid if a summons is not sent to every member.

14.3 The Chief Executive shall publish notice of the time and place of the meeting at the Council's offices

14.4 Where a Council meeting has been called by Councillors under Standing Order 9.2, the notice of meeting shall:

(a) be signed by those members, and

(b) state the business it is proposed to transact at the meeting.

**15. Convening Cabinet, Committee and Panel Meetings**

- 15.1 The Chief Executive shall issue all notices for Cabinet, Committee, Panel and Sub-Committee meetings.
- 15.2 Notices of meeting shall state the business to be transacted at the meeting. No matter shall be included on the notice of meeting without the prior agreement of the Chief Executive or his representative. The Chief Executive or his representative shall first be given a written report on the matter, or full details of any intended verbal report.

**16. Circulation of Notices of Meeting and Reports for Meetings:**

- 16.1 *The Chief Executive shall circulate all Notices of Meeting and officers' and other reports for Cabinet, Committee, Panel, and Sub-Committee meetings to members of the Cabinet, that Committee, Panel or Sub-Committee. At the same time, he shall circulate all Notices of Meeting, without officers' and other reports, to all members of the Council. This shall not apply if the member has indicated he does not wish to receive such Notices.*
- 16.2 *The Chief Executive shall circulate all officers' and other reports for Committee, Panel, and Sub-Committee meetings to all members of the Cabinet.*
- 16.3 *The Chief Executive shall circulate all officers' and other reports for Sub-Committee meetings to each member of the Committee or Panel that formed the Sub-Committee.*
- 16.4 *Other than as provided in 16.2 and 16.3, officers' and other reports for Cabinet, Committee, Panel and Sub-Committee meetings shall only be circulated to a member who is not a member of the Cabinet, a Committee, Panel or Sub-Committee on his request.*

**17. Reports following Cabinet, Committee and Panel Meetings:**

- 17.1 *Copies of the reports following Cabinet, Committee and Panel meetings shall be sent to each Council member with the Council summons and agenda. In case of urgency they may be issued between the summons dispatch and the Council meeting. **The content of each report shall be at the discretion of the Chairman of the Cabinet, Committee or Panel, as appropriate.***

Words added to clarify responsibility for the content of the reports

- 17.2 *When a report refers to a plan or document not issued to all members, any member may inspect the plan or document between the summons dispatch and the Council meeting.*

**23. Petitions - notice**

23.1 *Subject to 23.2 and 23.3, any member of the Council, or any member of the public, may present a petition at a Council, Committee or Panel meeting, on the following conditions:*

- (a) the nature and objects of the petition shall relate to local government matters concerning the District; and*
- (b) the person desiring to present the petition shall give the Chief Executive ten clear working days notice in writing; and*
- (c) the notice shall include a written statement of the nature and objects of the petition; and*
- (d) the petition shall be signed by at least ten residents of the District.*

*Note: See Standing Order 37 for procedure for presenting petitions at the Council meeting.*

23.2 *A petition under Standing Order 23.1 shall not be put to the Annual Council Meeting, or to the Annual Meeting of the Cabinet, a Committee or Panel held immediately after the Annual Council Meeting.*

Amended for consistency with provision regarding petitions at Annual Council

23.3 *A petition shall not be put to an extraordinary or special Council meeting, or to a special Cabinet, Committee or Panel meeting, unless, in the Chief Executive's opinion, it is relevant to a subject specified or to be specified on the summons or agenda for that meeting.*

23.4 *Where:*

*the subject of a petition is of a quasi-judicial nature, and the Monitoring Officer considers presenting it would prejudice any legal proceedings to be taken by the Council; or*

*the petition refers to legal proceedings being taken, or anticipated to be taken, by or against the Council,*

*the petitioner shall be advised, and the petition shall not be entertained.*

**24.** *[No 24 is a spare number].*

**DISPUTES BETWEEN CABINET AND COUNCIL**

**25. Resolving Disputes between the Council and Cabinet**

25.1 *The mechanism for resolving disputes between the Council and Cabinet shall be as stated in the Council's Constitution.*

**26. Review Panels – Call-In Procedures**

- 26.1 *The circumstances in which a Review Panel may call in a decision made by the Cabinet, including a decision made on its behalf under delegated powers, shall be as stated in the Council's Constitution.*

**ATTENDANCE AT MEETINGS**

**27. Attendance Record**

- 27.1 *Every Council member attending a Council, Cabinet, Committee, Sub-Committee or Panel meeting shall sign his name on the register provided. The names of all members attending shall be recorded in the minutes of the meeting.*

**28. Non-members Attending Cabinet, Committees, Sub-Committees and Panels**

- 28.1 *Subject to 28.2, the Chairman, Vice-Chairman, Leader and Deputy Leader of the Council, and the leaders of the opposition groups, may attend and speak (but not vote unless they are a member) at any meeting of a Committee, Sub-Committee or Panel.*

- 28.2 *A member of the Cabinet may not speak at a meeting of any Review Panel except at the invitation of the Chairman of the Panel.*

- 28.3 *The Leader of the Council may for any purpose invite any member or any other person to attend and speak (but not vote) at a Cabinet meeting.*

- 28.4 *A Review Panel may require a member of the Cabinet to attend a meeting of the Panel in accordance with the Council's Constitution. If a Cabinet member fails **without good reason** to attend a Panel meeting after having been required to do so, or fails to arrange for a representative to attend on his behalf if he is himself unable to attend, the Monitoring Officer shall refer the matter to the Standards Committee.*

A Cabinet member may have a legitimate reason for being able to attend the meeting, and it may not be possible to rearrange it to enable him to attend if the matter needs to be dealt with urgently. In these circumstances, reference to the Standards Committee is not considered to be warranted.

- 28.5 *A member of the Cabinet shall be entitled to attend a Review Panel meeting called for the purpose of Standing Order 26.*

- 28.6 *The Chairman of the Cabinet, a Committee or a Panel which has appointed a Sub-Committee may attend and speak (but not vote unless he is a member) at any meeting of the Sub-Committee.*

- 28.7 *A Council member who has moved a motion which has been referred to the Cabinet, any Committee, Sub-Committee or Panel, shall:*



*be given notice of the meeting at which it is proposed to consider the motion; and*

*have the right to attend the meeting; and, if he attends*

*be given an opportunity to explain the motion.*

28.8 *A Council member who is not a member of a particular Committee, Sub-Committee or Panel, may attend a meeting of that Committee, Sub-Committee or Panel. If the Chairman permits he may speak (but not vote) on any item of business discussed at that meeting.*

28.9 *The Chairman of a Committee, Sub-Committee or Panel may invite any member of the Council, who is not a member of the Committee, Sub-Committee or Panel, to speak on any item of business discussed at a meeting of the Committee, Sub-Committee or Panel. The Chairman may limit the speech to five minutes.*

#### **28/1. Cabinet member(s) absent from Cabinet meeting**

##### **28/1.1 Where a Cabinet member is absent from a Cabinet meeting:**

- a) **decisions may be taken in his absence providing there is a quorum. The Leader (or Chairman of the meeting if the Leader is absent) shall be responsible for ensuring that any action that would fall to an absent member is taken; and**
- b) **the Leader (or Chairman of the meeting if the Leader is absent) may invite any person, who need not be a Councillor, to attend a Cabinet meeting to speak on behalf of an absent Cabinet member. A person so invited may not vote.**

Transferred from main Constitution document

#### **29. Substitute members at Sub-Committees**

29.1 See Standing Order 5.3 and 5.4. It shall be the responsibility of the member who is unable to attend a meeting to inform any substitute member of the need to attend.

29.2 When a member attends a meeting as a substitute, he shall tell the Chief Executive or his representative that he is attending as a substitute immediately before the start of the meeting, (or on the member's arrival, if later).

29.3 A substitute member attending a meeting shall take no part in the proceedings if the appointed member also attends, unless invited by the Chairman to speak (but not vote).

#### **30. Quorum**

30.1 *Subject to 30.2, a Council meeting shall not transact business unless at least one quarter of the whole number of members is present, except in the circumstances*

*described in paragraph 45 of Schedule 12 to the 1972 Act (more than one-third of members disqualified at the same time).*

## **PROCEDURE AT MEETINGS**

### **30/1. Meetings to be in Public**

- 30/1.1** All meetings of the Council, the Cabinet (including any Committees or Sub-Committees of the Cabinet), Panels and Committees shall be held in public, except when confidential or exempt information within the meaning of the Local Government Act 1972 sections 100A to 100K, or the Local Authorities (Executive Arrangements) (Access to Information) Regulations, is being considered.

Transferred from main Constitution document

### **31. Chairman to Preside**

- 31.1 *The Chairman of the Council, Cabinet, a Committee, Panel or Sub-Committee shall, if present, preside at any meeting of the Council, Cabinet, the Committee, Panel or Sub-Committee. If the Chairman is absent, the Vice-Chairman, if present and if one has been appointed, shall preside.*
- 31.2 *If the Chairman, (and Vice-Chairman if appointed), are not present, another member of the Council, Cabinet, Committee, Panel or Sub-Committee shall be elected as Chairman for the meeting. This shall be the first item of business for the meeting.*
- 31.3 *If a member has been elected as in 31.2, and the Chairman (or Vice-Chairman) later attends the meeting, the Chairman (or Vice-Chairman) shall take the Chair on arrival.*

### **32. Time Limit on Meetings**

- 32.1 *All meetings shall end by 10.00 pm or, on a majority vote of those members present, 10.30 pm.*
- 32.2 *Any business not transacted when a meeting is adjourned shall be considered at another meeting of the same body, held at a time and place the Chairman fixes when the meeting is adjourned. If the Chairman does not fix a time, the business shall be considered at the next ordinary meeting of the Council, or of that Committee, Sub-Committee or Panel as appropriate.*

### **37. Members' Interests – Declaration at Meetings**

Note: This Standing Order is additional to Standing Orders for General Procedures No 2, which concerns disclosure of interests under the Local Authorities (Members' Interests) Regulations.

- 37.1 Any member who has a pecuniary interest within the meaning of Section 95 of the 1972 Act **or subsequent legislation**, in any matter a meeting is considering shall withdraw from the meeting while the meeting is considering the matter. The only exceptions are:
- (a) where the Secretary of State has given him a dispensation under Section 97(1) of the 1972 Act; or

- (b) where the Council is considering the matter as part of the report of the Cabinet, a Committee or Panel, and the matter itself is not the subject of debate.
- 37.2 Any Member who has a personal interest as defined by the National or Local Code of Conduct in any matter a meeting is considering shall disclose that interest. He may remain, speak and vote on the matter unless the interest is clear and substantial. If it is, he shall withdraw from the room **(subject to 37.3 below)**.
- 37.3 ~~A Member's involvement in another public body or voluntary association solely because he has been appointed to that body as a Council representative is not a clear and substantial interest. The Councillor shall disclose the interest, but may remain and participate in the meeting.~~  
**Where a member has an interest in a matter concerning another public body, a voluntary body or a charity, the following extract from the National Code of Local Government Conduct shall apply:**
- "In the following circumstances, but only in these circumstances, it can still be appropriate to speak, and in some cases to vote, in spite of the fact that you have declared such a clear and substantial private or personal interest:***
- a) if your interest arises in your capacity as a member of a public body, you may speak and vote on matters concerning that body; for this purpose, a public body is one where, under the law governing declarations of pecuniary interests, membership of the body would not constitute an indirect pecuniary interest;***
  - b) if your interest arises from being appointed by your local authority as their representative on the managing committee, or other governing body, of a charity, voluntary body or other organisation formed for a public purpose (and not for the personal benefit of the members), you may speak and vote on matters concerning that organisation;***
  - c) if your interest arises from being a member of the managing committee, or other governing body of such an organisation, but you were not appointed by your local authority as their representative, then you may speak on matters in which that organisation has an interest; you should not vote on any matter directly affecting the finances or property of that organisation, but you may vote on other matters in which the organisation has an interest;***
  - d) if your interest arises from being an ordinary member or supporter of such an organisation (and you are not a member of its managing committee or other governing body), then you may speak and vote on any matter in which the organisation has an interest."***

A member in this situation may also have an interest as in 37.1 and 37.2, in which case those paragraphs apply.

*This is an area which can confuse both members and officers during the course of a meeting, and in the interests of clarity it is thought advisable to specify the precise provisions in the Code of Conduct in the document that those attending meetings are most likely to have to hand.*

38. Presenting petitions
- 38.1 A member of the public presenting a petition may speak for no more than three minutes when presenting the petition. No more than two persons may present a petition. If both persons speak, the length of both speeches added together shall not exceed three minutes.
- 38.2 No more than two petitions may be presented at any meeting.
- 38.3 The Chairman shall consider whether or not a petition presented at a Council meeting is urgent.
- If it is, the Council shall consider it, **subject to** ~~unless~~ 38.4 **or 38.5** applies.
- If it is not, it shall be referred to the Cabinet, Committee or Panel within whose terms of reference it falls.
- 38.4 Where a petition affects the Council's approved strategies, policies or budgets, the Council shall not make a final decision until the Cabinet has had the opportunity to consider and make recommendations on the issue to the Council.
- 38.5 After considering a petition, the Council may not reach a decision on a matter which is reserved to the Executive.**
- 38.6 Standing Order 23.3 also applies to this Standing Order.

Clarifies that Council may not make final decisions on matters reserved to the Executive simply because a petition has been presented to Council on that subject.

**39. Receiving reports of Cabinet, Committees and Panels at Council**

- 39.1 At the Council meeting:
- The Leader of the Council, or in his absence the Deputy Leader, shall present the report of the Cabinet.
- The Chairman of the Committee or Panel, or in his absence the Vice-Chairman of the Committee or Panel shall present the report of the Committee or Panel.
- The person presenting the report shall move -
- "That the report of the [Cabinet] [Committee] [Panel] held on.....be received (and the recommendations be adopted)".
- The motion shall be seconded.
- 39.2 If both the Leader and Deputy Leader of the Council are absent, another member of the Cabinet shall move the motion on the Cabinet report.
- If both the Chairman and the Vice-Chairman of any Committee or Panel are absent, any other member of that Committee or Panel shall move the motion on the Committee or Panel report.

39.3 The Chairman of the Council shall call out the number of each item in the report of the Cabinet, Committee or Panel in order.

39.4 Immediately an item has been called, a member who:

wishes to speak or ask a question on that item; or

has a motion or amendment to a recommendation in the item,

shall:

raise an arm,

state the item number, and

remain with arm raised, until acknowledged by the Chairman or the Vice-Chairman.

***See Standing Order 47.9 concerning a member's right to speak once on each item.***

*See note at Standing Order 47.9*

39.5 The Chairman of the Council shall disallow any question he considers is unsuitable in form, frivolous or derogatory to the dignity of the Council.

39.6 A member speaking on a recommendation under this Standing Order shall comply with the provisions of Standing Order 47 concerning rules of debate.

39.7 At the start of his speech on an item dealt with by the Cabinet, a Committee or Panel under delegated powers, the member speaking shall state whether he is asking a question, or putting a motion or an amendment to a motion.

39.8 When all items and recommendations in the report have been called, speeches made and questions dealt with, the Chairman of the Council shall move as in 39.1, taking account of any amendments. The motion shall be voted on without further discussion.

#### ***40. Questions of which notice has been given***

This Standing Order applies to questions of which notice has been given under Standing Order 22.

See Standing Order 39 for questions on reports of the Cabinet, a Committee or Panel when that item is under consideration by the Council.

40.1 Every question shall be put and answered without discussion. The member who asked the original question may ask one supplementary question arising from the answer. The answer to either question shall not be discussed.

40.2 An answer to a question may take the form of:

(a) a direct oral answer, or



## **When a member may speak again at Council**

47.9 **Subject to 47.9/1**, a member who has spoken on any motion **or item raised** at a Council meeting shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member,
- (b) if the motion has been amended since he last spoke, to move a further amendment,
- (c) if his first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he spoke was carried,
- (d) as a right of reply under Standing Order 47.15,
- (e) on a point of order,
- (f) by way of personal explanation.

### **47.9/1 A member may speak once on each item in a report of the Cabinet, Committee or Panel referred to in Standing Order 39.3.**

Clarifies that members may speak once on each item in a report to Council of Cabinet, a Committee or Panel

#### **Amendments to motions**

47.10 An amendment shall be relevant to the motion and shall be either:

- (a) at a Council meeting, to refer a subject of debate to the Cabinet, or to a Committee or Panel for consideration or re-consideration,
- (b) to leave out words,
- (c) to leave out words and add others,
- (d) to add words,

but any omission or addition of words shall not negative the existing motion.

47.11 Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of. Provided that the Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of business.

47.12 If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion, and shall become the motion on which any further amendment may be moved.

## CALL IN PROCEDURES FOR EXECUTIVE DECISIONS

### 1. DECISIONS COVERED BY THIS PROCEDURE

- 1.1 This procedure shall apply to the following decisions taken by or on behalf of the Executive:

All decisions by the Cabinet  
All decisions by Portfolio Holders  
Key decisions (as defined in the main Constitution document) by officers.

These are described below as "Executive decisions".

- 1.2 This procedure shall not apply to recommendations made by the Cabinet to full Council. Such recommendations are not Executive decisions, and all members of the Council are entitled to contribute to the debate, and to vote, on the recommendation at the appropriate Council meeting.

### 2. ARRANGEMENTS FOR NOTIFYING MEMBERS OF EXECUTIVE DECISIONS

- 2.1 Chapter 6 of this Constitution lays down the procedures to be followed when Executive decisions are taken.
- 2.2 When an Executive decision has been made, the proper officer shall publish, and circulate to all Members of the Council, notice of:
- a. the decision,
  - b. the reasons for it, and
  - c. any options considered and rejected by the decision maker at the time the decision was made.
- 2.3 The decision notice in 2.2 above shall be published as soon as reasonably practicable, normally within two working days of the date of the decision.
- 2.4 The decision notice shall also state:
- a. The names of the "appropriate Panel" (or Panels). This is the Review Panel or Panels which, in the opinion of the Monitoring Officer, is/are responsible for overview and scrutiny functions relating to the subject matter of the decision, and is/are therefore entitled to review the decision; and

- b. The date by which any member of the appropriate Review Panel(s) who wishes to review the decision must give notice of that fact to the Monitoring Officer. This date shall be five working days after the date on which the decision notice is first published. Unless both the Monitoring Officer and the appropriate Head of Service are satisfied that it must be implemented urgently, the decision shall not be implemented until the date stated in the notice has expired.

### **3. HOW TO CALL IN AN EXECUTIVE DECISION**

- 3.1 A member of an appropriate Panel who wishes to call in an Executive decision must inform the Monitoring Officer in writing, or by e-mail, of:

- a. the decision he or she wishes to call in; and
- b. the reason he or she wishes to call in the decision.

The Monitoring Officer must receive the notification before the Council offices close for normal business (5.15 pm) on the date stated in paragraph 2.4.b above.

- 3.2 If two or more members of an appropriate Panel wish to call in a decision, they may notify the Monitoring Officer individually as in paragraph 3.1 above, or they may submit a joint notification in writing.

### **4. ACTION WHEN AN EXECUTIVE DECISION HAS BEEN CALLED IN**

- 4.1 If **one member** of an appropriate Panel calls in an executive decision (or, if there is more than one appropriate Panel, no more than one member of any appropriate Panel), the matter shall be placed on the agenda for the next programmed meeting of the Panel or Panels for discussion. Implementation of the decision shall not be affected.

- 4.2 If **two or more members** of the appropriate Panel (or, if there is more than one appropriate Panel, two or more members of the same Panel\*), wish to call in an executive decision, the following arrangements shall be made:

- a. Subject to the provisions relating to urgent decisions in paragraph 7.1 below, the decision shall not be implemented until the procedure laid down in the remainder of this Chapter is complete.
- b. The decision shall be considered at a meeting of the appropriate Panel to be held within ten working days of the date specified in the decision notice (paragraph 2.4.b). If necessary to meet this timescale, a special Panel meeting shall be held. The Monitoring Officer shall be responsible for arranging any special meeting.
- c. If there is more than one "appropriate Panel", the Monitoring Officer may decide, after taking into account the subject matter of the decision and the reasons why Panel members have called it in, that a joint meeting of some or all of the appropriate Panels should be held.

- d. If, after a decision has been called in but before the appropriate Panel or Panels have considered it, the Cabinet or the person who made the decision reconsiders it and reaches a conclusion that satisfies the Panel members who have called it in, the item shall be withdrawn from the agenda for the Panel meeting. If there is no other business to be transacted the Panel meeting shall be cancelled.

\*Note: a Member of the Council who is a member of two or more appropriate Panels may call in a decision by virtue of his or her membership of any, or each of those Panels. That is, he or she has a separate "vote" to call in a decision for each of the appropriate Panels on which he or she serves.

## **5. CONSIDERATION OF DECISION BY REVIEW PANEL**

5.1 Where a decision is reviewed under paragraph 4.1 above (at the next programmed meeting because only one Panel member has called it in), the Panel shall consider whether:

- a. the decision was within the Council's policy and budget; and
- b. if it was, whether the policy or budget should be reviewed.

It shall report its views direct to the Cabinet and the Council.

5.2 Where a decision is reviewed under paragraph 4.2 above (two or more members of a Panel have called in the decision, and implementation has been delayed subject to the provisions relating to urgency set out in paragraph 7.1 below), the Panel or Panels shall either:

- a. Accept the decision (in which case it may be implemented immediately);  
or
- b. Request the decision-maker to reconsider the decision, giving reasons for the request. The decision-maker shall reconsider the decision as soon as reasonably practicable, (which in the case of a Cabinet decision shall normally be interpreted as at its next meeting). After reconsideration the decision, whether amended or not, may be implemented immediately, and may not be called in for a second time under the procedures in this Chapter; or
- c. Where the decision is of particular high local significance or public interest, refer the decision to full Council for debate at a Council meeting to be held within ten working days of the Panel meeting. If necessary to meet this timescale, a special Council meeting shall be held. The Monitoring Officer shall be responsible for arranging this. The decision-maker shall reconsider the decision as soon as reasonably practicable after the Council meeting (which in the case of a Cabinet decision shall normally be interpreted as at its next meeting), in the light of the Council debate. After reconsideration the decision, whether amended or not, may be implemented immediately, and may not be called in for a second time under the procedures in this Chapter.

## **6. ATTENDANCE OF EXECUTIVE AT PANEL MEETINGS**

- 6.1 Where an Executive decision is being reviewed at a Panel meeting, a Member of the Executive shall have the right to represent the Executive at the Panel meeting . The Executive may also call upon the appropriate professional officer to provide information to the Panel.
- 6.2 The Panel shall have the right to require Executive members, or officers, to attend the meeting, as laid down in Chapter 10 of this Constitution.

## **7. IMPLEMENTATION OF DECISION THAT HAS BEEN CALLED IN**

- 7.1 An Executive decision that has been called in by two or more members of an appropriate Panel shall not be implemented until the procedures in paragraphs 4.2 and 5.2 have been completed unless, in the opinion of both the Monitoring Officer and the appropriate Head of Service, it is, or it becomes, essential to implement the decision before those procedures are complete in the interests of the proper conduct of the Council's business. Where a decision is implemented under this paragraph, the Monitoring Officer shall be responsible for ensuring that an explanation is sent to members.
- 7.2 Where a decision is implemented under paragraph 7.1 before the procedures in paragraphs 4.2 and 5.2 have been completed, the Panel shall still be entitled to consider whether:
- a. the decision was within the Council's policy and budget; and
  - b. if it was, whether the policy or budget should be reviewed,
- and report its views direct to the Cabinet and the Council.

## BEST VALUE

### 1. INTRODUCTION

1.1 This protocol defines the roles and responsibilities of the Cabinet, Review Panels, Committees, Best Value Boards and the Council in the Best Value process.

### 2. BEST VALUE

- 2.1 The Cabinet shall be responsible for advising the Council on Best Value arrangements, plans and strategies for adoption, the Best Value Performance Plan and for fulfilling all the statutory and Council requirements relating to the conduct of Best Value Reviews.
- 2.2 In carrying out this function the Cabinet shall ensure:
- (i) the Council publishes its Best Value Performance Plan by the statutory date;
  - (ii) Council services are reviewed in accordance with the Best Value review programme and processes agreed by Council;
  - (iii) meaningful and robust performance indicators, standards and targets are set;
  - (iv) actual performance against targets is monitored and appropriate action is taken to drive services towards continuous improvement;
  - (v) service reviews are evaluated and action plans developed;
  - (vi) any necessary new policies and strategies are developed and recommended to Council following Best Value reviews;
  - (vii) those papers, reports or other documents which the Cabinet have considered when making its recommendations to Council are made available to the Review Panels and Committees.
- 2.3 The Review Panels' and Committees' responsibilities in the Best Value process shall be as assessors of the rigour of the process and verifiers of evidence for key proposals and outcomes from the. Crosscutting issues shall be assessed in partnership as appropriate.
- 2.4 They shall ensure that all services across the authority are satisfying their duty of Best Value and are working towards continuous improvement through the assessment of annual service plans, improvement plans and the like.

2.5 In support of the rights contained within the Local Government Act 2000, the Review Panels and Committees shall:

- (i) appoint lead members to serve on the Best Value Boards;
- (ii) be provided with copies of all relevant papers, reports and other documents upon which the Cabinet have relied in making its recommendations – provided that if any confidential information is supplied – that confidentiality will be maintained;
- (iii) have power, subject to the approval of the Chief Executive, to require additional research to be undertaken on specific issues;
- (iv) comply with all reasonable time scales set by the Cabinet for response to any consultations;
- (v) be empowered to submit a report to Council on any matter relating to Best Value or an individual service review where there is a disagreement between the Cabinet and all or any of the Review Panels;
- (vi) be an essential part in the service review process;
- (vii) monitor all services' performance against targets set including achievement against Improvement Plans, service plans etc;
- (viii) review whether services are embracing the principle of and achieving year on year continuous improvement.
- (ix) where deemed appropriate, or the Council requires, undertake consultations with other Local Authorities, partners and stake holders who may be interested in the Council's work towards Best Value;

2.7 The Best Value Boards shall ensure:

- (i) The review plan sets out all relevant aspects of the review process and in particular adequately addresses the Challenge, Compare, Consult and Compete elements of Best Value;
- (ii) The issues and plans set out in the Review Plan are considered within the review and shown as appropriate in the Improvement Report or evidence as appropriate.
- (iii) key stakeholders are appropriately involved in Best Value issues;
- (iv) Review Panels are given the opportunity to be fully involved in the Best Value process and any recommendations made to Council;
- (v) the appropriate Committees are fully consulted on relevant proposals prior to any final recommendations being formulated for submission to Council.

2.5 In relation to Best Value, and in particular with respect to the Best Value Performance Plan the Council shall retain the absolute right, subject to the provisions of its constitution, to approve, amend, or reject any proposals put to it by the Cabinet. In determining any proposals, the Council shall:

- (i) have regard to any comments made by the Review Panels and Committees, Best Value Boards, other Local Authorities, partners and stake holders; and
- (ii) where it is not prepared to approve proposals submitted by the Cabinet, refer such proposals back to the Cabinet to be dealt with in accordance with the “disputes procedure” provisions of the Council’s Constitution.

### **3. VARIATION OF PROTOCOL**

3.1 This protocol may be varied by resolution of the Council upon a recommendation from the Cabinet. No such recommendation shall be made until the Cabinet have consulted the Review Panels and Committees of the Council.



<b>Source</b>	<b>Power Delegated</b>	<b>Delegation to</b>
Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000	To be the “Proper Officer” for the purposes of the Regulations	Chief Executive, Monitoring Officer
Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000	To be “Proper Officers” for the purposes of Regulations 6 and 9(4) of the Regulations	Chief Executive, Head of Public Services, Head of Consultancy Services, General Manager – New Forest Commercial Services, Director of Finance, Head of Legal and Democratic Services, Democratic Services Manager, Assistant Director of Finance – Corporate and Client Services, Assistant Director of Finance – Customer and Support Services, Head of Information and Communication Technology Services, Director of Community Services, Assistant Director of Leisure Services (Service Development), Assistant Director of Leisure Services (Business Development), Assistant Director (Environmental Health), Assistant Director (Housing Landlord Services),

**Source**

**Power Delegated**

**Delegation to**

Assistant Director (Housing Strategy Services),  
Head of Support Services – Community Services,  
Corporate Planning Co-Ordinator, Head of Personnel,  
Director of Environment Services,  
Head of Policy, Design and Information,  
Head of Development Control

**27 JUNE 2001**

**NEW FOREST DISTRICT COUNCIL**

**HOUSING REVIEW PANEL**

Minutes of a meeting of Housing Review Panel held at Appletree Court, Lyndhurst on Wednesday 27 June 2001.

p Cllr B Rule (Chairman)  
e Cllr M C Kidman (Vice-Chairman)

**Councillors:**

p Mrs S Abernethy  
p Mrs J L Cleary  
e Mrs M McLean  
p Mrs M Humber BA

**Councillors:**

p A W Rice TD  
p T M Russell  
p M J Shand  
Vacancy

**In Attendance:**

**Councillor**

Cllr Mrs MJ Robinson,

**Councillor**

Cllr MH Thierry

**Also in Attendance:**

**Tenant Representatives:** Mrs E Biddlecombe  
Mr P Larkin  
Mrs V Martin  
Mrs P White

**Officers Attending:**

D Brown, Ms S Coles, N Cross, K Green, S Maggs, P Thompson, R Topliss and for part of the meeting, M Devine, R Easton and Mrs S Reynolds.

**4. MINUTES.**

**RESOLVED:**

That the minutes of the meetings held on 4 April and 21 May 2001, having been circulated, be signed by the Chairman as correct records.

**5. DECLARATION OF INTEREST.**

Cllr Thierry disclosed an interest in the subject matter of Minute 18.

**6. PUBLIC PARTICIPATION.**

No issues were raised during the public participation period.

## 7. NAME OF THE PANEL

The Chairman expressed his view that the name of this Panel did not adequately reflect its responsibilities in the areas of health and social exclusion, as well as housing. Members agreed.

### RESOLVED:

That the Modernisation Working Party be requested to amend the name of the Panel to the "Housing, Health and Social Exclusion Panel".

**ACTION: Peter Thompson**

## 8. SWAYTHLING AND HYDE HOUSING ASSOCIATIONS (REPORT A)

The Chairman referred to the presentations made by the Swaythling Housing Society and the Hyde Housing Association at the last ordinary meeting of the Panel, and introduced further correspondence he had had with each.

### RESOLVED:

- (a) That Cllrs Rule and Mclean, together with the appropriate officers, explore with the Housing Associations methods of improving their performance on general housing management issues and report back to the Panel; and
- (b) That all Members who have identified particular problems at Housing Association sites inform officers of such difficulties, in order that direct contact can be made with a view to rectifying matters.

**ACTION: Nick Cross**

## 9. HOUSING STRATEGY AND HOUSING REVENUE ACCOUNT BUSINESS PLAN 2002/2007 (REPORT B)

The Panel considered the Housing Strategy and Housing Revenue Account Business Plan for 2002/07, which was due to be considered by Advisory Cabinet and Policy and Resources Committee in the following week.

Members congratulated officers on the comprehensive nature of the document, which was, broadly speaking, a review of similar previous documents. Particular emphasis had been made this year on homelessness; the Council's strategic role in housing provision; market conditions; rural housing provision and scheme design. The Business Plan element of the document was a new section, which described the purpose of the Strategy, outlined its aims and detailed methods to ensure these were achieved.

Reference was made to the emerging needs of single people and key workers, both of which would be highlighted in the Housing Needs Survey which was due to be considered by the Panel shortly.

Whilst supportive of the document, some criticism was made of jargon contained within it and the view expressed that perhaps a glossary was required.