

## Article 2 - Members of the Council

### DEVELOPING ROLES FOR COUNCILLORS

#### 2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 60 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

#### 2.02 Election and Terms of Office of Councillors

**Election and terms.** The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

#### 2.03 Roles and Functions of all Councillors

(a) **Key Roles.** All councillors will:

- (i) Collectively decide Council Policy and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward and represent the ward as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

(b) **Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are set out in this Constitution or are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in

confidence to anyone other than a councillor or officer entitled to know it. To do so would be viewed as a prima facie breach of the Code of Conduct.

- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

#### **2.04 Conduct**

Councillors will at all times observe the Members' Code of Conduct and other Protocols set out in Part 7 of this Constitution.

#### **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 8 of this Constitution, which is available for public inspection.

#### **2.06 Register of Interests**

The Council maintains a register of the interests of Councillors in accordance with the Localism Act 2011 and the Council's Code of Conduct.

The register is open to public inspection at Lancaster Town Hall and is published on the Council's website.

## **Part 4, Section 2**

### **Access to Information Procedure Rules**

#### **1. SCOPE**

With the exception of Rules 10.01 and 10.02, Rules 1 to 11 apply to all meetings of Council and its Committees, Cabinet and its Committees, Overview and Scrutiny meetings (including formally constituted Task Groups) and Area Forums. Rules 10.1 and 10.2 apply to all meetings of the Cabinet and its committees.

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

#### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

#### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at Lancaster Town Hall and Morecambe Town Hall.

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will publish copies of the agenda and reports open to the public on its website and make them available for inspection at Lancaster and Morecambe Town Halls at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be published and open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Officer (Governance) shall make each such report available to the public as soon as the report is completed and sent to councillors.

#### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda, reports and background papers which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

#### **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, for all meetings of the Council, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.01 List of Background Papers**

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the writer of the report:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of Cabinet reports, the advice of a political advisor.

### **8.02 Public Inspection of background papers**

Background papers will remain available for public inspection for four years after the date of the meeting. Background papers for meetings of the Cabinet and its committees will be published on the Council's website when the agenda is published and copies will be made available at Lancaster Town Hall and Morecambe Town Hall.

## **9. SUMMARY OF THE PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at Lancaster Town Hall and Morecambe Town Hall.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.01 Notice of Private Meetings of the Executive**

When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its committees a notice of intention to hold a meeting in private will be published on the Council's website at least 28 clear days before the date of the private meeting. The notice will also be made available at Lancaster and Morecambe Town Halls.

The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

At least five days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be held in private, details of any representations made about holding the meeting in public, and the response to those representations.

#### 10.02 Urgent Private Meetings of the Executive

If the urgency of a decision makes compliance with rule 10.01 impracticable, the decision maker or decision making body will seek agreement from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chairman of the Overview and Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council's website and made available at the two Town Halls setting out why the meeting is urgent and cannot reasonably be deferred.

#### 10.03 Confidential Information – requirement to exclude public

Subject to Rules 10.01 and 10.02 above, the public must be excluded from any meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

#### 10.04 Exempt Information – discretion to exclude public

Subject to Rules 10.01 and 10.02 above, the public may be excluded from any meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

In determining whether information is to be treated as exempt, Members will consider the extent to which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

#### 10.05 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, and information the public disclosure of which is prohibited by Court Order, or by virtue of any enactment.

#### 10.06 Meaning of exempt information

Exempt information means information falling within the following categories.

Category	Qualification
1 Information relating to any individual	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"><li>(a) Where disclosure is prohibited by statute, or</li><li>(b) Where disclosure might involve providing personal information about individuals, or</li><li>(c) Where disclosure might breach a duty of confidentiality, and</li><li>(d) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.</li></ul>
2. Information which is likely to reveal the identity of an individual	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"><li>(a) Where disclosure is prohibited by statute, or</li><li>(b) Where disclosure might involve providing personal information about individuals, or</li><li>(c) Where disclosure might breach a duty of confidentiality, and</li><li>(d) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.</li></ul>

Category	Qualification
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p><i>(‘Financial or business affairs’ includes contemplated, as well as past or current, activities)</i></p> <p><i>This category will include commercial and contractual interests)</i></p>	<p>Information is not exempt if it is required to be registered by law under:</p> <ul style="list-style-type: none"> <li>• The Companies Act 1985</li> <li>• The Friendly Societies Act 1974</li> <li>• The Friendly Societies Act 1992</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978</li> <li>• The Building Societies Act 1986 (recorded in the public file of any building society, within the meaning of the Act)</li> <li>• The Charities Act 1993</li> </ul> <p>Information is only exempt if and for so long as:</p> <ol style="list-style-type: none"> <li>(a) Disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods, services whether the advantage would arise as against the Council or as against other persons, or</li> <li>(b) Disclosure would prejudice the efficiency and effectiveness of the use of Council resources, or</li> <li>(c) Disclosure of trade secrets and other information would or would likely prejudice the commercial interests of any person, including the Council, and</li> <li>(d) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ol>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.</p> <p><i>(‘Labour relations matters’ are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute)</i></p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <ol style="list-style-type: none"> <li>(a) Would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</li> <li>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ol>



Category	Qualification
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only exempt:</p> <p>(a) Where a claim of legal professional privilege could be maintained in legal proceedings, e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and</p> <p>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</p> <p>(b) To make an order or direction under any enactment</p>	<p>Information is exempt only if and so long as:</p> <p>(a) Disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made; and</p> <p>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Any action to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is only exempt if its disclosure would, or would likely to, prejudice:</p> <p>(a) Criminal investigations and proceedings, or</p> <p>(b) The apprehension or prosecution of offenders, or</p> <p>(c) The administration of justice, or</p> <p>(d) The assessment or collection of any tax or duty or of any imposition of a similar nature, or</p> <p>(e) Regulatory enforcement, or</p> <p>(f) Any civil proceedings, or</p> <p>(g) Health and safety, or</p> <p>(h) Information obtained from confidential sources, and</p> <p>(i) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

## 10.7 Members of the Council

Members of the Council may attend any meeting during the discussion of confidential or exempt information, save where the item of business relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to attend has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "exempt from publication", together with the category of information likely to be disclosed. However, Members of the Council will have access to such reports, save where the item of business relates to an individual officer (other than the



Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to exercise the right of access has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

## 12. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a Notice (called here a Key Decision Notice) has been published in connection with the matter in question at least 28 clear days before the date when the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 7 (notice of and summons to meetings).

## 13. KEY DECISION NOTICE

### 13.1 Content of the Key Decision Notice

A Key Decision Notice will contain details of

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name, title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which or the period within which the decision will be taken;
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter and how to obtain copies of such documents
- (e) a statement that other documents may be taken into account by the decision taker and how to obtain copies of any such documents.

## 14. GENERAL EXCEPTION – URGENT BUSINESS

14.01 Subject to Rule 16, where a matter which is a Key Decision requires an urgent decision and the required 28 days notice has not been given, the decision may still be taken if:

- (a) The Chairman of the Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee, has been informed by notice in writing of the matter about which the decision is to be made;
- (b) a Key Decision Notice has been published and made available for inspection by the public; and
- (c) five clear days have elapsed following the day on which the Key Decision Notice was published and made available.

## 15. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice, or, in the absence of the Mayor, the agreement of the Deputy Mayor.

**16. REPORT TO COUNCIL**

**16.01 Report to Council when the key decision procedure is not followed**

If an executive decision has been made and was not treated as a key decision, and the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, the Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any three members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

**16.02 Quarterly reports on special urgency decisions**

In any event the leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

**17. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected at that meeting and any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision.

**18 MEETINGS OF THE CABINET AND ITS COMMITTEES RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will meet in public for all its decisions, except for decisions based on those parts of any document that contain exempt or confidential information. In such cases Rules 10.01 and 10.02 will apply.

**19. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

**19.01 Material relating to business to be transacted at a public meeting of Cabinet**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business to be transacted at a public meeting, and any such document must be available for inspection for at least five clear days before the meeting

#### 19.02 Other Material relating to business transacted

All members of the Council will be entitled to inspect any document which is in the possession or under the control of Cabinet and contains material relating to any business transacted at a private meeting of Cabinet, or any decision made by an individual Cabinet member or an officer, within 24 hours after the meeting concludes or after the decision has been made.

#### 19.03 Exceptions

Regulation 16(6) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 provides However, that a document is not required to be available for inspection under Rules 19.01 or 19.02 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of contract negotiations), or paragraph 6 of Schedule 12A.. However, Council has resolved that all members of the Council should have access to all exempt reports, background papers and minutes, save where the report, background paper, or minute relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to access the information has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct.

~~Further, a~~ document is not required to be available for inspection if advice provided by a political adviser or assistant would be disclosed.

#### 19.04 Nature of Rights

These rights of a member are additional to any other right they may have in statute or at common law.



## 20. OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS

20.01 Regulation 17 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 provides that wWithin 10 clear days of so requesting, a member of the Overview and Scrutiny Committee (including task groups) or Budget and Performance Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (i) any business that has been transacted at a meeting of a decision-making body of the Council
- (ii) any decision that has been made by an individual Cabinet Member in accordance with executive arrangements or
- (iii) any decision that has been made by an officer of the Council in accordance with executive arrangements

except for documents, or parts of documents, which contain

- (a) advice provided by a political adviser or
- (b) exempt or confidential information, unless that information is relevant to
  - (i) an action or decision that the Member is reviewing or scrutinising; or
  - (ii) any review contained in the work programme of the Overview and Scrutiny Committee or Budget and Performance Panel.

However, Council has resolved that all members of the Council should have access to all exempt reports, background papers and minutes, save where the report, background paper, or minute relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to exercise the right has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct.

Overview and Scrutiny will not be entitled to any document which is in draft form.

Where the Cabinet determines that a member of an Overview and Scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in (a) or (b) above, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

## Part 4, Section 4 Cabinet Procedure Rules

### 1. HOW THE CABINET OPERATES

#### 1. How the Executive Operates

##### 1.1 Who may make Executive Decisions

The Leader determines the arrangements for the discharge of executive functions. The arrangements may provide for executive functions to be discharged by:

- i) The Leader;
- ii) Cabinet as a whole;
- iii) Individual Cabinet Members;
- iv) a committee of the Cabinet;
- v) Officers of the Council;
- vi) if and when established - joint arrangements with other local authorities; or
- vii) another local authority;

##### 1.2 Delegation by the Leader

- (a) At the annual meeting of the Council, the Leader will present to the Council the names of the people appointed to the Cabinet by the Leader (including the name of the Deputy Leader), and their portfolios.
- (b) At the annual meeting of the Council or as soon as practicable thereafter, the Leader will present to the Council a written record of :
  - (i) The detailed remits of the portfolios of the Cabinet Members.
  - (ii) Any delegations made by the Leader in respect of the discharge of the Council's executive functions. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:
    - The extent of authority of the Cabinet as a whole
    - The extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
    - the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
    - the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and



- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

and these shall then be included in the Council's Constitution.

### 1.3 Sub-Delegation of Executive functions

(a) Where the Leader delegates an executive function to the Cabinet, then unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the Cabinet, a joint arrangement or to a Council officer.

(b) Where the Leader delegates an executive function to a committee of the Cabinet or to an individual member of the Executive then unless the leader directs otherwise, a committee of the Executive or an individual member of the Executive may delegate further to a Council officer.

(c) Even where executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

### 1.4 The Executive's Scheme of Delegation

- (a) Subject to (b) below the Executive's Scheme of Delegation will be reported to Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Officer (Governance) and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Chief Officer (Governance) will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on its chair.

### 1.5 Conflicts of Interest

- (a) Where the Leader or any Member(s) of the Cabinet and its Committees have a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet or its Committees has a conflict of interest, this may be dealt with by way of dispensations granted by the Standards Committee.
- (c) If the exercise of an Executive function has been delegated to an Officer and should a conflict of interest arise, then the function will be exercised in the first instance by the person by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 7 Section 2 of this Constitution.

## 1.6 Cabinet Meetings – When and Where?

The Cabinet will meet monthly, alternating between Lancaster Town Hall and Morecambe Town Hall on dates and at times to be agreed by Leader, to be confirmed by Full Council on an annual basis. The Leader may agree to hold additional meetings as required. In determining the time for the meeting, regard should be had to maximising the accessibility of the public.

## 1.7 Meetings of the Cabinet

All decision-making meetings of the Cabinet will be in public except for that part of an item of business where exempt or confidential information is to be discussed.

## 1.8 Quorum

The quorum for a meeting of the Cabinet shall be four Members of the Cabinet. For meetings of Cabinet Committees, a quorum will be 40% (rounded up) or 3, whichever is the greater.

## 1.9 How are Decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4, Section 2 of this Constitution.
- (b) Where executive decisions are delegated to a Committee of the Cabinet, the Rules for taking decisions shall be the same as those applying to the Cabinet.

## 1.10 Urgent Decisions

- (a) When an executive decision which is the responsibility of the Cabinet is needed prior to the next scheduled meeting, the procedures set out in the Access to Information Rules 15 and 16 must be followed (Part 4 Section 2).
- (b) Decisions taken under this procedure must be reported into the next scheduled meeting of Cabinet.

## 1.11 Agendas

All Cabinet agendas and those of its Committees will be available to all Members of the Council. Cabinet members will take responsibility and ownership of Cabinet reports in their portfolio area of responsibility. Cabinet agenda should not include information reports.

## 2. CONDUCT OF THE CABINET AND ITS COMMITTEES

### 2.1 Chairing Meetings

- (a) The Leader of the Cabinet will preside. In the absence of the Leader, the Deputy Leader, will preside. In both the Leader and Deputy Leader's absence, then a person will be appointed to preside by those present.
- (b) The Leader will preside at any meeting of a Committee of the Cabinet at which they are present, or may appoint another person to do so. In the absence of the Cabinet Committee's Chairman, then a person will be appointed to preside by those present.

## 2.2 Who may attend to observe?

Any member of the public and any Member of the Council may attend any Cabinet meeting or a meeting of its Committees. All decision making meetings of the Cabinet and its Committees will be in public. Members of the public will be excluded for that part of an item of business where exempt or confidential information is to be discussed. A Member of the Council will not be excluded whilst exempt or confidential information is being discussed, provided that the information does not concern an individual employee (other than the Chief Executive or a Chief Officer), or an individual member of the public, and provided that the Member does not have a disclosable pecuniary interest or an interest which would fall within paragraph 12(1) of Section 2 of Part B of the Council's Code of Conduct.

## 2.3 Business of the Meeting

At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declaration of interests, if any;
- (c) urgent business agreed by the Leader, or in the absence of the Leader, by the Deputy Leader or Chairman of the meeting.
- (d) matters set out in the agenda for the meeting for decision including registered members of the public speaking and registered ward members
- (e) consideration of reports from Cabinet Committees;
- (f) consideration of reports from Overview and Scrutiny;
- (g) matters referred to the Cabinet (whether by Overview and Scrutiny or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedures Rules set out in this Constitution; and
- (h) reports from the Chief Executive or Chief Officers.

## 2.4 Consultation

All reports to Cabinet from any Member of the Cabinet or an Officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and Overview and Scrutiny and the outcome of that consultation. Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Cabinet Agenda Items

The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee or any member or officer in respect of that matter.

Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and that Councillor may, at the discretion of the Leader, be invited to attend the meeting, and with the consent of the Cabinet, to speak.

Furthermore, the Chief Executive, Monitoring Officer and/or the Chief Financial Officer (the Council's Section 151 Officer) may include an item for consideration on the Agenda of a Cabinet meeting and the Monitoring Officer/Chief Financial Officer may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the Agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the Agenda may also require that a meeting be convened at which the matter will be considered.

## **2.6 Right of Members to Address Cabinet**

Where an Overview and Scrutiny meeting submits a report to Cabinet, a nominee of that meeting may and will normally present the report to Cabinet. Any Member, at the discretion of the Chairman of Cabinet, may address Cabinet on Ward matters where this is relevant to a report on the Agenda, subject to giving three days notice and a five minute time limit.

## **2.7 Rights of the Public to Speak at Cabinet**

- (a) Members of the public are permitted to speak on issues included on the Cabinet Agenda, with questions/comments from the public prior to the commencement of each item.
- (b) Notice of the wish to speak must be registered with Democratic Services in writing or by telephone before 12 Noon on the Thursday before Cabinet meets.
- (c) It is the responsibility of the person wishing to speak to find out the appropriate date that Cabinet will consider the item of business that they wish to speak on. This information can be obtained from Democratic Services. Late requests to speak at Cabinet will not be considered.
- (d) Any request to speak must include the person's name, address and contact telephone number, together with details on the item they wish to speak on. A written version of their speech or questions must be supplied in advance (unless there are special circumstances).
- (e) Persons who have registered to speak should be in attendance 30 minutes prior to the commencement of the meeting to enable a list of speakers present to be passed to the Chairman. Any latecomers who have not confirmed their intention to speak on the morning of the meeting will only be allowed to speak at the discretion of the Chairman.
- (f) Democratic Services, having received notice from persons wishing to speak will re-order the agenda to enable items with public participation to be considered first.
- (g) There will be a maximum of ten speakers per Cabinet meeting on a first come first served basis with a maximum of five minutes per speaker.
- (h) There will be a maximum of three speakers on each item of business, but if there are less than ten speakers in total to speak at Cabinet then a maximum of four people will be allowed

to speak on a particular item of business on a first come first served basis, at the discretion of the Chairman.

- (i) Any group of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. The Chief Officer (Governance) to be authorised to ask speakers to consolidate their views if there are more than three persons in the group.
- (j) Speakers must be prepared to respond to questions from Cabinet Members at the meeting if necessary.

## 2.8 Access to Information

The rules that determine how the Cabinet will conduct its meetings in respect of the following are set out in the Access to Information Procedure Rules in Section 2 of Part 4 of this Constitution:

- Key Decisions and Key Decision notices
- Exempt and Confidential Business
- Agendas, Reports, Minutes and Background Papers

The rules relating to urgent business procedures are set out in Part 4, Section 7.

## 2.9 Cabinet Liaison Groups

- (a) Cabinet Liaison Groups are not an essential body but may be created to take forward business. However, they are purely consultative and not decision-making. They will be chaired by a member of Cabinet and there is no restriction on size although the group must be limited to what is manageable and effective for their purpose. They may be time limited or of longer standing, again depending on their purpose.
- (b) The participants in the Group will be by invitation of the Chairman and can be made up from any or all of the following:
  - Other members of Cabinet
  - Other members of Council not on Cabinet
  - Others from outside the Council
  - Council officers
- (c) *Terms of Reference:* Their Terms of Reference are to share information about a particular topic, e.g. e-government and develop effective consultation and communication links with community groups and other bodies with an interest in the subject area. In this way, individual Cabinet members will have a wider information and advisory platform to inform executive decision-making and policy effectiveness.
- (d) Specific outcomes from their meetings may generate requests for pieces of work to be undertaken by officers or partner bodies. Alternatively, it could be a request to Overview and Scrutiny to set up a Task Group to undertake a specific piece of work. There could also be specific reports to Cabinet, Committees of Cabinet, individual Cabinet members, or other Committees of Council recommending action for determination.
- (e) Each Liaison Group will have their terms of reference and expected outputs approved by Cabinet before they meet.



## Part 4, Section 8

### Licensing Regulatory Committee Procedure Rules

1. **RIGHTS OF THE PUBLIC TO SPEAK AT LICENSING REGULATORY COMMITTEE**
  - (a) Members of the public are permitted to speak on issues included on the Licensing Regulatory Committee agenda prior to the commencement of each item. This does not apply to items relating to individual licence applicants or licence holders (see below)
  - (b) Notice of the wish to speak must be registered with Governance (Democratic Services) in writing, by email or by telephone before 12 noon on the third working day before the Committee meets. As the Committee generally meets on Thursday, this will normally be the Monday before the meeting.
  - (c) It is the responsibility of the person wishing to speak to find out the appropriate date that the Committee will consider the item of business that they wish to speak on. This information can be obtained from Governance (Democratic Services). Late requests to speak at Committee will not be considered.
  - (d) Any request to speak must include the person's name, address and contact telephone number, together with details on the item they wish to speak on. Subject to (q) below, a written version of their speech must be supplied to the Chief Officer (Governance) in advance, not later than 48 hours before the meeting, who shall not accept the request to speak as valid unless satisfied that the speech is proper to be presented..
  - (e) Persons who have registered to speak should be in attendance 15 minutes prior to the commencement of the meeting to enable a list of speakers present to be passed to the Chairman. Any latecomers who have not confirmed their intention to speak in accordance with this requirement will only be allowed to speak at the discretion of the Chairman.
  - (f) Governance (Democratic Services), having received notice from persons wishing to speak will re-order the agenda to enable items with public participation to be considered early in the meeting, although this will be balanced with the needs of individuals who are attending to make representations on exempt /confidential items.
  - (g) There will be a maximum of three speakers on each item of business and a maximum of five minutes per speaker.
  - (h) Any group of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. Only one representative of any trade association will be permitted to speak on any item of business.
  - (i) Speakers must be prepared to respond to questions from Committee Members at the meeting if necessary. However, there will be no debate

between a speaker and Members of the Committee on the matters raised by the speaker.

- (j) Once the public speakers have spoken on an item of business, the Committee will debate the item and make a decision, and there will be no further contributions from the public during this process.

#### **Procedure for Individual Applications/Licences**

- (k) Where an item on the agenda of the Licensing Regulatory Committee relates to an individual licence holder or licence applicant, the individual will be entitled to attend the meeting and make oral representations to the Committee, and may be represented by a solicitor or barrister or any other representative, and may call witnesses. The press and public will generally be excluded because the matter will relate to exempt or confidential information. Where the matter relates to exempt or confidential information, a Member of the Council who is not sitting as a member of the Committee will also be excluded from the meeting.
- (l) The Licensing Manager or her representative will present the report, and will call oral evidence if appropriate. The individual applicant/licence holder will have the opportunity to question the officer(s) and any witnesses. Members of the Committee will then have the opportunity to question the officer(s) and any witnesses.
- (m) The individual applicant/licence holder and/or their representative may then make oral representations to the Committee and may call any witnesses. The Licensing Manager or her representative will have the opportunity to question the individual and any witnesses. Members of the Committee will then have the opportunity to question the individual and any witnesses.
- (n) The Licensing Manager or her representative will have the opportunity to sum up, and the individual applicant/licence holder will have the opportunity to sum up.
- (o) The Committee will then make its decision in private, advised by the Committee's legal adviser and democratic support officer, and the decision will then be announced to those who have participated in the item.
- (p) If appropriate, arrangements may be made in advance of the meeting for the Committee to inspect any vehicle that the item relates to.
- (q) If an individual licensing application does not contain exempt or confidential information, and is therefore considered in public, members of the public will have a right to speak before consideration of the item. The provisions set out in (a) to (i) above will apply except that, in the case of such individual applications, there will be no requirement for the submission in advance of a written version of what is to be said. Once any members of the public have spoken, the procedure for consideration of the application will be as set out in (l) to (o) above.

## **Part 7, Section 6**

### **Protocol on Member/Officer Relations**

#### **1. INTRODUCTION**

- 1.1 The purpose of this protocol is to guide Members and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- 1.3 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

#### **2. ROLE OF MEMBERS AND OFFICERS**

- 2.1 Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and Cabinet, and the various Committees.
- 2.2 The Council's Constitution sets out the clear distinction between the roles of Members and Officers. Members will perform roles on the Cabinet, and on the Regulatory and Overview and Scrutiny and other Committees, in addition to sitting as members of the full Council. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council, and are accountable to the Chief Executive. They provide support to the executive, scrutiny and regulatory functions of the Council, providing impartial advice and implementing the decisions of the Council, the Cabinet and Committees. They may also make decisions under powers delegated to them.
- 2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.
- 2.4 Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Members would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.
- 2.5 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The procedural rules also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

- 2.6 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.
- 2.7 The general obligations in the Members' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority. There is also a requirement for Members in making decisions to have regard to any advice provided by the Council's Section 151 Officer and the Monitoring Officer. Any allegation by an officer that a Member has failed to comply with the Code of Conduct will be dealt with under the Standards Committee's procedure for dealing with Code of Conduct complaints. As with any such complaint, the first stage will be for the Monitoring Officer to seek to resolve the matter informally.

### **3. OFFICER ADVICE TO GROUPS OF MEMBERS**

- 3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or Service Heads, or otherwise with the approval of the Chief Executive and any information provided to the group will not as a matter of routine be passed on to other groups. However, briefing information provided to a political group, whether or not it contains confidential information, may, at the written request of that group, be passed on by the relevant officer to other groups also.
- 3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
  - (b) Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.
- 3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members, unless specifically asked to do so.
- 3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

### **4. OFFICER/MEMBER RELATIONSHIPS**

- 4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairmen, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.
- 4.2 Whilst the Cabinet Leader and Committee Chairmen will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Member will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.
- 4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, other Committees of Council or an Officer, but also allows for an individual Cabinet Member to take a non-key decision.
- 4.4 It must be remembered that Officers within a Service are accountable to their Chief Officer and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Head. Officers should also refer to Part 3 (Responsibility for Functions) and Part 7, Section 1 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

## 5. **UNDUE PRESSURE**

- 5.1 A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 5.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

## 6. **CRITICISM / COMPLAINTS**

- 6.1 It is important that there should be mutual courtesy between members and officers.
- 6.2 Members and officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Member or officer, or in any other public forum.
- 6.3 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings or in any other public forum. Any such complaints should be made to the Chief Executive.

## 7. **SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 7.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, e-mail, internet, photocopying, transport, etc.) to Members was to



assist them in discharging their role as Members of the Council. However the current Code of Conduct does allow limited private use of Council resources by Members provided that when using or authorising the use by others of the resources they must -

- (i) act in accordance with the Authority's reasonable requirements; and
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

7.2 The Democratic Support Section in Governance should be the first point of contact in all aspects relating to Member support.

## 8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

8.1 Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the ~~Service Head, Chief Officer or~~ Service Manager or other nominated representative. If Members wish to visit officers, they should contact the Chief Officer or Service Manager to make arrangements whenever possible.

8.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Council has also resolved to extend Members' statutory rights with regard to exempt information.

8.3 Under Section 100F of the Local Government Act 1972, any Member may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, Cabinet, a Committee or Sub-Committee. This right applies irrespective of whether the Member is a member of the relevant committee, and extends not only to reports but also to background papers.

However, the statutory right does not apply if a document discloses "exempt" information as defined in—Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (the financial and business affairs of any particular person), except to the extent that it relates to any terms proposed by or to the authority in the course of negotiations for a contract, or within paragraph 6 (that the authority proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). These exceptions mean that a Member's right of access to information under the Local Government Act 1972 is slightly wider than the public right under that Act.

Further details, including information about the ~~particular statutory~~ rights of Overview and Scrutiny members, are set out in the Access to Information Procedure Rules in Part 4, Section 2, of the Constitution.

Council has, however, resolved to extend a Member's rights as set out above. All Members are permitted to have access to exempt Cabinet, Committee and Sub-Committee reports, background papers and minutes and to attend meetings during the discussion of exempt information, save where the report, document, minute or meeting relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to exercise the right has a disclosable



pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

8.4 The common law right of Members with regard to other documents is much broader and is based on the principle that any —member has a prima facie right to inspect council documents so far as his/her access to the —documents is reasonably necessary to enable the member to carry out his/her duties as a —member. This is referred to as the “need to know” principle. If a Member is a member of —Cabinet or a committee, then he/she has the right to inspect documents relating to the business of Cabinet or the committee. If a Member is not a member of the relevant —Committee, then he/she has to demonstrate why sight of the document is necessary to —enable the performance of his/her duties as a member. This could be by reference to the role —as ward Member. Members have no right to a “roving commission” to examine documents —of the Council. Mere curiosity is not sufficient. If the Member’s motive for seeing —the —documents is indirect, improper or ulterior, then there would be no right of access at common law. Generally ward members will be deemed to have a “need to know” in relation to matters arising in their ward. Where information relating to a ward matter would be exempt if it were the subject of a report to Council, Cabinet or a Committee, it will be made available to a ward member on request, except where the information relates to an individual third party or where the ward member has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct.

8.5 A Member has the same rights of access to information under the Freedom of Information Act 2000 as any member of the public. A request must be in writing and describe specifically the information requested. The exemptions set out in the Act would be applied whoever is requesting the information. Once information has been made available in response to a Freedom of Information request, it becomes public.

8.6 From a procedural point of view, if a Member makes a request for information that is not routine, the request should be made to the relevant ~~Service Head~~Chief Officer, who will consider first —whether all the information would be made available as a matter of course to a member of —the public making a similar request. If so, the information will be provided to the Member.

8.7 If the request is such that the information would not automatically be provided to a member of the public, the Chief Officer for the service will consider whether the information can be provided under the arrangements set out above in paragraphs 8.3 and 8.4. ~~Section 100F of the Local Government Act 1972 or under the common law “need to know”.~~ The Chief Officer should consult with the Monitoring Officer. The final determination as to whether there is a “need to know” will be made by the Monitoring Officer. The Overview and Scrutiny Committee may hold the Monitoring Officer to account in accordance with Rule 14 of the Overview and Scrutiny Procedure Rules.

8.8 If ~~neither Section 100F nor the “need to know” are met~~the information cannot be made available under paragraphs 8.3 or 8.4 above., then the request will be dealt with as a Freedom of Information Act request, but without the need for the Member to make a specific FOI request. The FOI request will be dealt with in the normal way with advice from Legal Services. This may result in the information being provided in part, with an exemption applying to the remainder, or the request being refused in its entirety as a result of an exemption. The Member will be informed that the request has been considered under the Freedom of Information Act and that there is a right of internal review which will be carried out by the Monitoring Officer. Following such a review, the Member will be advised of the right to pursue the matter with the Information Commissioner.



- 8.9 Any information provided under the Freedom of Information Act can be made public by the Member. Exempt information provided under paragraph 8.3 above and information provided under the "need to know" will be provided with the caveat that it is provided to the Member in his/her capacity as Member, and is only to be used for the —purpose of exercising his/her functions, and should not be made public. Members should take particular care with exempt or confidential information, and should not use the information in any way which might cause the Council to breach the Data Protection Act 1998 or any duty of confidentiality, or which might prejudice the Council's financial or legal position or cause damage to its reputation.
- 8.10 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where
- the Member has the consent of a person authorised to give it;
  - the Member is required by law to do so;
  - the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority. These are set out in Part 7 Section 3 of the Constitution.

## 9. CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

## 10. INVOLVEMENT OF WARD COUNCILLORS

- 10.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition, whenever significant Council organised events or works or other activity are taking place in a locality, all the Members representing the ward or wards should as a matter of course be notified.
- 10.2 If an individual contacts the Council about a general Council service, for example leisure, food safety, taxi licensing or a housing benefit or council tax issue, such contact is unlikely to be a ward issue, as the address of the individual is unlikely to be significant to the particular contact or complaint. In these circumstances, officers will not generally involve the ward councillor.
- 10.3 If an individual contacts the Council about a location related issues, for example, noise from particular premises, difficulties with refuse collection in a particular street, an overhanging tree, or uneven access to council housing accommodation, then, unless the issue is 'de minimis' and can be resolved at once, the ward councillors will be advised of the problem and what action is being or has been taken to resolve it. It should be possible to do this on a general

basis and without revealing the identity of the individual who has raised the issue. The details of the individual will not be passed on to ward councillors without the individual's consent.

- 10.4 In no circumstances will correspondence from an individual, or from a third party representing an individual, be disclosed to a ward councillor if it is marked confidential or contains personal data. If, in these circumstances, an officer is of the view that a ward councillor's involvement would be valuable or that there is a need for the ward councillor to know of the issue, and it is not possible to do so in general terms without disclosing confidential or personal information, then the relevant individual's consent will first be obtained.
- 10.5 If an individual has sought assistance from one ward councillor in a multi-member ward, and an officer is in contact with that ward councillor who is acting on the individual's behalf, information about the issue will not be shared with another ward councillor without the consent of the individual or the ward councillor who first raised the issue.

## 11. MEETINGS WITH THIRD PARTIES

- 11.1 On occasions, Members may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Members. Members are reminded that, as individual Members, they cannot commit the Council to any contract or other agreement or course of action. Members are advised to make this clear to any third party with which they may have contact. Should Members be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant officer present. This will enable the officer to explain to the third party the proper decision making process, and will protect Members against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.
- 11.2 More detailed guidance about meetings relating to planning issues is set out in the Protocol on Planning in Part 7 Section 5 of the Constitution

## 12. MEDIA RELATIONS

- 12.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time, and can be found in Part 7 Section 7 of the Constitution.

## 13. ARBITRATION

- 13.1 The Protocol is intended to act as a guide for both Members and Officers. The relevant Chief Officer should deal with difficulties that arise in the first instance with the Member(s) concerned. The Monitoring Officer and then the Chief Executive should then consider any continuing difficulties.
- 13.2 Serious difficulties or breakdowns in relations that cannot be resolved through the above route should be referred to the Standards Committee for determination in accordance with the protocol. This will be very much a last resort. Every effort should be made to resolve difficulties at any early stage.

## 14. REVIEW OF PROTOCOL

- 14.1 The protocol is intended to provide Members and Officers with guidelines to determine their roles and their relations with each other.

- 14.2 It is intended to be a “live” document and will be reviewed from time to time to reflect changing circumstances. The Standards Committee is the lead Committee.
- 14.3 Members or Officers with queries about the Protocol should contact the Council’s Monitoring Officer.