

PART 4

RULES OF PROCEDURE

Part 4 - FULL COUNCIL PROCEDURE RULES

1. ANNUAL MEETING OF THE COUNCIL

1.1. Timing and business

1.1.1. Unless otherwise determined by the Mayor, the Annual Meeting of Full Council will be held at the Town Hall, Royal Tunbridge Wells, commencing at 10am.

1.1.2. The Annual Meeting of Full Council will be held in May. Other council meetings will be held at such times throughout the year as Full Council decides.

1.1.3. The Annual Meeting will:

- (a) elect a member of the Council to preside if the Mayor or Deputy Mayor of the Council are not present;
- (b) elect the Mayor of the Council;
- (c) appoint the Deputy Mayor of the Council;
- (d) deal with any business required by Statute to be undertaken before any other business;
- (e) if agreed by a majority, approve the minutes of the last meeting, subject to the exception set out in paragraph 22.2. below.
- (f) receive any announcements from the Mayor and/or Chief Executive;
- (g) elect the Leader of the Council;
- (h) agree the number of members to be appointed to the Cabinet and appoint them;
- (i) appoint at least one overview and scrutiny committee, a standards committee and such other committees and boards as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out below in the Cabinet Procedure Rules);
- (j) agree the scheme of delegation, or such part of it as the Constitution determines it is for the Council to agree (as set out in Appendix B to Part 3 of this Constitution);
- (k) approve a programme of ordinary meetings of the Council for the year; and
- (l) consider any business set out in the notice convening the meeting.

1.2. Selection of Councillors for Appointment to Committees and Outside Bodies

At the Annual Meeting, the Council will:

1.2.1. decide which committees to establish for the municipal year;

1.2.2. decide the size and terms of reference for those committees and boards;

1.2.3. decide the allocation of seats and substitutes to political groups in accordance with the requirements of Section 15 of the Local Government and Housing Act 1989;

1.2.4. receive nominations of members to serve on each committee and board, and relevant outside body; and

1.2.5. appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.

2. ORDINARY MEETINGS OF THE COUNCIL

2.1. Order of Business for Meetings

Ordinary meetings of the Council will take place in accordance with a programme determined at the Council's Annual Meeting. Ordinary meetings will:

2.1.1. elect a person to preside if the Mayor and Deputy Mayor are not present;

2.1.2. if agreed by a majority, approve the minutes of the last meeting;

2.1.3. deal with any business required by Statute to be undertaken before the commencement of any other business;

2.1.4. receive any declarations of interest from members;

2.1.5. receive any announcements from the Mayor, Leader, members of the Cabinet or the Chief Executive;

2.1.6. receive questions and petitions from, and provide answers to, the public and any member exercising his or her rights under Part 5 paragraph 12.2 of the Code of Conduct in relation to matters, which in the opinion of the person presiding at the meeting, are relevant to the Council;

2.1.7. receive questions from, and provide answers to, members in accordance with paragraph 15 below;

2.1.8. deal with any business brought forward or arising from the last Council meeting;

2.1.9. receive reports from the Cabinet and the Council's committees, and receive questions and answers on any of those reports;

2.1.10. receive reports and questions and answers on the business of joint arrangements and external organizations;

2.1.11. consider motions;

2.1.12. consider any nominations of members to serve on outside bodies;

2.1.13. consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework, and reports of the overview and scrutiny select committees; and

2.1.14. authorise the sealing of documents.

2.2. Variation of Order of Business

Business falling under (a), (b) and (c) in paragraphs 2.1.1, 2.1.2. and 2.1.3. above will not be displaced but, subject thereto, the foregoing order of business may be varied: -

2.2.1. by the Mayor or, in his or her absence the Deputy Mayor or member presiding over the meeting, at his or her discretion; or

2.2.2. by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which will be moved and put without discussion.

3. EXTRAORDINARY MEETINGS OF THE COUNCIL

3.1. Calling Extraordinary Meetings.

Elected members and the officer listed below may require the proper officer to call Council meetings in addition to ordinary meetings:

3.1.1. the Council by resolution;

3.1.2. the Mayor;

3.1.3. the Monitoring Officer; and

3.1.4. any five members of the Council if they have signed a requisition presented to the Mayor and he or she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2. Business of an Extraordinary Meeting

Extraordinary meetings will:

3.2.1. elect a person to preside if the Mayor or Deputy Mayor is not present; and

3.2.2. consider only the business for which the meeting was called.

3.2.3. receive and consider any petitions relating to items of business on the summons and which the Mayor (or other councillor acting as chairman of the meeting) agrees to hear.

3.3. Special Meetings

Special meetings of the Council's Committees and Sub-Committees may be called by the Chairman, Vice-Chairman, or at the requisition of one-quarter of the ordinary members of the Committee or at the request of the Chief Executive, Monitoring Officer or Chief Financial Officer. When setting a date for a special meeting, every effort will be made to accommodate the needs of all members. However, the decision regarding the final date rests with the Chief Executive.

4. REGULATION OF PROCEEDINGS AND BUSINESS

4.1. Where the Council has any objection to a draft plan or strategy submitted to it by the Cabinet, it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to him or her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy before it:

4.1.1. amends the draft plan or strategy;

4.1.2. approves, for the purpose of its submission to the Secretary of State or any Ministers of the Crown for his or her approval, any plan or strategy (whether or not in the form of a draft) of which any part is to be so submitted; or

4.1.3. adopts (with or without modification) the plan or strategy,

4.2. Subject to paragraph 4.8. below where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

4.2.1. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;

4.2.2. estimates of the other amounts to be used for the purpose of such a calculation;

4.2.3. estimates of such a calculation; or

4.2.4. amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992, and, following consideration of those estimates or amounts, the Council has any objections to them, it must take the action set out in paragraph 4.5. below.

4.3. Where the Council gives instructions in accordance with paragraph 4.1. above, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader of the Cabinet receives instructions on behalf of the Cabinet within which the Leader of the Cabinet must:

4.3.1. submit a revision of the draft plan or strategy as amended by the Cabinet to the Council for its consideration, showing the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or

4.3.2. inform the Council of any disagreement that the Cabinet has with the Council's objections and the Cabinet's reasons for such disagreement.

4.4. When the period specified by the Council referred to in paragraph 4.3. above has expired the Council must, when:

4.4.1. amending the draft plan or strategy or, if there is one, the revised plan or strategy;

4.4.2. approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his or her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

4.4.3. adopting (with or without modification) the plan or strategy, take into account any amendments made to the draft plan or strategy that are included in any draft plan or strategy, the Council's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

4.5. Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 4.2. above or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of the Council of any objections which it has to the Cabinet's estimates or amounts and must give to him or her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

4.6. Where the Council gives instructions in accordance with paragraph 4.5. above, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which he or she may:

4.6.1. submit a revision to the Council for its consideration of the estimates or amounts as amended by the Cabinet which may have been reconsidered in accordance with the Council's requirements, with the Cabinet's, reasons for any amendments made to the estimates or amounts; or

4.6.2. inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any disagreement.

4.7. Where the period specified by the Council referred to in paragraph 5.6. above has expired the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 4.2.1. above or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account the following points which the Leader of the Council has submitted to the Council or has informed the Council of within the period specified:

4.7.1. any amendments to the estimates or amounts that are included in any revised estimates or amounts;

4.7.2. the Cabinet's reasons for those amendments;

4.7.3. any disagreement that the Cabinet has with any of the Council's objections; and

4.7.4. the Cabinet's reasons for that disagreement.

4.8. Paragraphs 4.2., 4.5., 4.6. and 4.7. above do not apply in relation to:

4.8.1. calculations or substitute calculations which the Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

4.8.2. amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Sections 52J or 52U of that Act.

5. APPOINTMENT OF MEMBERS AND SUBSTITUTE MEMBERS TO COMMITTEES BOARDS AND SUB-COMMITTEES

5.1. Allocation

The Council, at its Annual Meeting, will allocate seats for substitute members on the committees, (and the committees in turn will make such allocations to their sub-committees) in the numbers listed in Part 3 of this Constitution.

Any changes to this arrangement throughout the year is delegated to the Chief Executive, who has the power to appoint members and substitute members of committees, boards and sub-committees in accordance with the proportionality rules where applicable, and with nominations notified to him or her in writing by each political group and signed by the Group Leader or other member in the same political group. Any proposed changes must be authorised in writing by the Group Leader (a Group spokesperson), the signed authority being deposited with the Chief Executive.

The appointment of ordinary members will only be valid if the Chief Executive is notified before the agenda is published. There will be no substitute members for the Standards Committee, the Audit Committee or the Licensing Committee.

5.2. Powers and Duties

In the case of bodies discharging the functions of development or licensing control or appeals, the political groups are only to nominate councillors who have received appropriate training to enable proper and lawful discharge of the function in question. It is incumbent on officers to offer or facilitate members' training to enable them to be nominated.

5.3. Substitution

The terms of their appointment are that, if a member of a committee, board or sub-committee is unable to attend any meeting, then he or she is responsible for contacting one of the substitute members and arranging for them to attend in his/her absence, subject to the following pre-condition being met:

5.3.1. Once a substitute member has been nominated to attend a meeting the member in whose place the substitute attends shall no longer be entitled to attend that meeting as a member of that committee/board or sub-committee. A substitute member in attendance at a meeting has the same power and duties as an ordinary member for whom he or she is a substitute.

5.3.2. The member is required to inform the Committee Administrator of this arrangement prior to the meeting taking place.

5.3.3. Cabinet members are not able to be substitute members of the Overview and Scrutiny Select Committees or its subsidiary bodies.

6. TIME AND PLACE OF THE MEETINGS

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

7. NOTICE OF, AND SUMMONS TO, MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules at Appendix A. A summons will be sent by post to members' usual place of residence and e-mailed to them. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8. ATTENDANCE BY OTHERS

Members of the Council have the right to attend any committee or sub-committee meeting. Members of the Council who attend under this rule are entitled to speak, but not vote at meetings, provided they have given prior notice to the Chairman. However, members must note that the rules regarding declaring personal and prejudicial interests will still apply.

9. ATTENDANCE OF THE CHAIRMAN OF STANDARDS COMMITTEE AT MEETINGS OF THE FULL COUNCIL

The Chairman or Vice-Chairman of the Standards Committee (or his or her nominated representative) may present reports of the Standards Committee to the Council and answer questions on those reports from members of the Council. Following this presentation, the report will be moved by a member of the Council in accordance with paragraph 16 below, 'Motions on Notice'.

10. CHAIRMAN OF A MEETING

The person presiding at a Council meeting may exercise any power or duty of the Chairman. Where these rules apply to committee, board or sub-committee meetings, references to the Chairman also include Chairmen of committees, boards, or sub-committees.

11. QUORUM

11.1. The quorum of a meeting will be one quarter of the whole number of members of that body. During any meeting, if the Chairman counts the number of members present and declares that there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

11.2. The calculation of the quorum is to be based on rounding up or down to the nearest whole number (eg $6 \times 25\% = 1.5$; $10 = 2.5$ so round up if 0.5 or more).

12. QUESTIONS BY THE PUBLIC

12.1. General

At each ordinary meeting of the Council, a period of up to thirty minutes will be set aside for members of the public to put questions to members of the Cabinet and committee, board or sub-committee chairmen.

12.2. Order of Questions

Questions will be asked in the order in which notice was received, except that the Chairman may group together similar questions. Where more than one question is received from a member of the public and there are further questions from other members of the public, then the first of the questions received from the person making multiple requests will be put before taking in turn the first question of each and every subsequent questioner. Only when all the members of the public who have submitted questions have had the opportunity to ask one question will a second question be put.

12.3. Notice of questions

A question may only be asked if notice has been given by delivering it in writing to the Chief Executive no later than midday 3 clear working days (which exclude Saturdays, Sundays and Bank Holidays) before the day of the meeting. The Chairman may waive this requirement at his or her discretion. Each question must give the name and address of the questioner. The Chief Executive will determine the member of the Council to whom it is to be put.

12.4. Scope of Questions

The Chairman, on the advice of the Chief Executive, may reject a question if it:

12.4.1. is not about a matter for which the local authority has a responsibility or which affects the Borough;

12.4.2. is defamatory, frivolous or offensive;

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

12.4.4. requires the disclosure of confidential or exempt information.

12.5. Record of Questions

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. A summary of the answers thereto will also be recorded.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

12.6. Asking a Question at a Meeting

The Chairman will invite the questioner to put their question to the member named in the notice. A questioner who has submitted a written question and is unable to be present, may ask the Chairman to put the question on his or her behalf. The Chairman may then ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, not to deal with it.

12.7. Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in paragraph 12.4. above.

12.8. Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, or of the questioner, will be dealt with by a written answer.

13. PETITIONS

13.1 Subject to paragraphs 14.2., 14.3. and 14.4.below, members of the public, or an elected member on their behalf, may submit a petition containing at least 10 signatures to any ordinary meeting of the Council or to an extraordinary meeting where the subject matter of the petition relates to an item on the agenda for that meeting.

The wording of a petition must be presented in writing, signed and dated, to the Democratic Services Manager at least two weeks before the day of the meeting.

The Mayor, or in his or her absence the councillor presiding, may, at his or her discretion, waive the requirements relating to notice periods or the number of signatures.

13.2. Content and Exclusions

Petitions presented to the Council must be on a subject for which it has responsibility or which affects the Borough of Tunbridge Wells and not involve the disclosure of confidential or exempt Information.

13.2.1 If, in the opinion of the Democratic Services Manager, a petition is concerned with an application or like matter due to be considered by a forthcoming meeting of a Regulatory [Planning and Licensing] Committee, Cabinet or other committee required to act according to quasi-judicial principles, then such a petition will be reported to the appropriate committee in the normal course of consideration of that matter.

13.2.2. The Mayor, on the advice of the Monitoring Officer, may reject any petition that in his or her opinion is offensive, defamatory, frivolous, vexatious or which has been the subject of a petition which has been put to a meeting of the Council within the previous six months.

13.3. Presentation of a Petition

An elected member or member of the public submitting a petition to the Council may speak for up to three minutes to summarize the contents of the petition. The petition will then be referred to the relevant Cabinet member or Committee Chairman without debate.

13.4. Action on a Petition

The Cabinet member or Committee chairman to whom a petition is referred is, within one month of its presentation, to arrange for the lead petitioner to be informed in writing, stating what action, if any, the Council has taken, or is taking, on the petition. A copy of this letter is to be sent to the Democratic Services Manager.

14. QUESTIONS BY MEMBERS

14.1. On Reports of the Cabinet, Committees or Boards

A member of the Council may ask the Leader or the Chairman of a committee or board any question without notice about an item in a report of the Cabinet or a committee or board when that item has been received or is under consideration by the Council.

14.2. Questions on Notice at full Council

A member of the Council may ask a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Tunbridge Wells (subject to paragraph 14.3. below) of:

14.2.1. the Mayor; or

14.2.2. a member of the Cabinet; or

14.2.3. the Chairman of any committee or board

14.3. Notice of Questions

A member may only ask a question under paragraph 14.2. above:

14.3.1. if they have given the Chief Executive at least 3 working days' notice in writing of the question; or

14.3.2. with the permission of the Mayor, put to him or her, or to the chairman of any committee or board any question relating to urgent business, of which notice has not been given. A copy of any such question should, other than in exceptional circumstances, be delivered to the Chief Executive not later than ten am of the day of the meeting.

14.4. Response

An answer may take the form of:

14.4.1. a direct oral answer;

14.4.2. where the desired information is in a publication of the Council or other published work, a reference to that publication; or

14.4.3. where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and which is also published in the minutes of the meeting at which the question was asked.

14.5. Supplementary Question

A member asking a question under paragraph 14.2. or 14.3. above may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

14.6. Reference of a Question to the Cabinet or a Committee or a Board

Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or board. Once seconded, such a motion will be voted on without discussion.

14.6.1. Any member who wishes to exercise his or her right under Part 6 paragraph 12(2) of the members' Code of Conduct is to:

(a) notify the Chairman of the meeting in advance that he or she wishes to do so, giving such advance notice (including advance notice of any question to be asked) as members of the public are required to give in respect of the meeting in question. The Chairman may waive this requirement at his or her discretion.

(b) at the meeting, state publicly, when declaring a personal and prejudicial interest that he or she intends to exercise the right under paragraph 12(2) of the Members' Code of Conduct to make a statement or ask a question (as appropriate) before leaving the meeting at which discussion of the item will take place; and

c) make his or her statement, or ask a question etc, from the area of the room occupied by members of the public present at the meeting.

14.6.2. Questions and statements etc from members of public are to be taken before questions and statements etc from the councillors exercising their rights under paragraph 10(1) of the members' Code of Conduct, but must be taken in the same part of the meeting as questions and statements etc as members of the public.

14.6.3. Members who have exercised their rights under paragraph 12(2) of the members' Code of Conduct above will be required to leave the meeting room before any discussion of the item in which they have a personal or prejudicial interest takes place, but may be present in the room throughout the rest of the meeting.

14.6.4. Members have no right under paragraph 12(2) of the members' Code of Conduct to make statements or ask or answer questions etc on items on which members of the public may not speak.

15. PUBLIC'S RIGHT TO SPEAK

A member of the public may speak at any meeting of the Council at the invitation of the Chairman, subject to paragraph 15.1 below. The issue on which the person or organisation wishes to speak must be on the agenda for that particular meeting. After the member of the public has used the allocation of time set out in paragraph 15.2. below, he or she may not speak further unless asked to do so by the Chairman to clarify a point of fact.

15.1. Notice

Notice of a request to speak must be given by no later than 4pm on the working day before the relevant meeting.

15.2. Time Limit

15.2.1. The total time limit allocated in total to members of the public for speaking on an item on the agenda is 12 minutes;

15.2.2. Within that 12 minute period, each speaker has a maximum of 3 minutes;

15.2.3. In addition to the 12 minutes allocated for members of the public, Parish or Town Council representatives are allocated a maximum of 3 minutes each;

15.2.4. Where there are several speakers, they will be asked whether they are able to appoint a spokesperson to represent all their views.

16. MOTIONS ON NOTICE

16.1. Notice

Except for motions which can be moved without notice under paragraph 17, notice of every motion is to be given in writing, signed by the member or members of the Council giving the notice and delivered at least seven clear working days before the next meeting of the Council at the office of the Chief Executive, by whom the notice will be dated, numbered in the order in which it is received and entered into a record open to public inspection.

16.2. Motion set out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that he or she proposes to move it to a later meeting or to withdraw it.

16.3. Motion Not Moved

If a motion set out in the summons is not moved either by a member who gave notice thereof or by some other member on his or her behalf it will, unless postponed by consent of the Council, be treated as withdrawn and will not be moved without fresh notice.

16.4. Scope

Motions must relate to matters for which the Council has a responsibility or which affect the Borough.

16.5. Referral to Cabinet, Committee or Board

If the subject matter of any motion of which notice has been duly given comes within the province of the Cabinet, or Committee, or any Board, it is to, upon being moved and seconded, stand referred without discussion to the Cabinet, Committee or Board, or to such committee or board as the Council may determine, for consideration and report.

16.6. Rejection of a Motion

If the Chief Executive considers that any motion for which notice has been given is unlawful, irregular or improper, he or she will immediately advise the appropriate Chairman and the notice will not be accepted unless on a specific direction of the chairman. If the notice is not accepted, the Chief Executive will inform the member(s) who gave the notice of the motion and the reasons for its rejection.

17. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- 17.1. to appoint a chairman of the meeting at which the motion is moved;
- 17.2. on the accuracy of the minutes;
- 17.3. to change the order of business in the agenda;
- 17.4. to refer an item to an appropriate body or individual;

- 17.5. to appoint a committee or board, or members thereof, arising from an item on the summons for the meeting;
- 17.6. to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- 17.7. to withdraw a motion;
- 17.8. to amend a motion;
- 17.9. to proceed to the next business;
- 17.10. to request that the question be now put;
- 17.11. to adjourn a debate;
- 17.12. to adjourn a meeting;
- 17.13. to suspend a particular Council procedure rule;
- 17.14. to exclude the public and press in accordance with the Access to Information Rules at Appendix A;
- 17.15. to extend the time limit for speeches;
- 17.16. to not hear further a member or members named under paragraph 24.3. below or to exclude that member or members from the meeting under paragraph 24.4. below.
- 17.7. to give the consent of the Council where its consent is required by this Constitution; and
- 17.8. to authorise the sealing of documents.

18. RULES OF DEBATE

18.1. No Speeches until a Motion is Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

18.2. Right to Require a Motion to be Presented in Writing

Unless notice of a motion has already been given in accordance with paragraph 16. above, the Chairman may require it to be written down and handed to him or her before it is discussed.

18.3. Secunder's Speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

18.4. Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 10 minutes without the consent of the Chairman.

18.5. When a Member may Speak Again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

18.5.1. to speak once on an amendment moved by another member;

18.5.2. to move a further amendment if the motion has been amended since the first member last spoke;

18.5.3. if his or her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he or she spoke was carried);

18.5.4. in exercise of a right of reply;

18.5.5. on a point of order;

18.5.6. by way of personal explanation; and

18.5.7. to speak following the giving of factual comment made by the Chief Executive or his or her representative in accordance with paragraph 18.14. below.

18.6. Amendments to Motions

18.6.1. An amendment to a motion must be relevant to the motion and will either be:

(a) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(b) to omit words;

(c) to replace words; or

(d) to insert or add words.

as long as the effect of (b), (c) and/or (d) is not to negate the motion.

18.6.2. Other than in exceptional circumstances only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. Exceptionally 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 the Council's business.

(a) If an amendment is not carried, other amendments to the original motion may be moved.

(b) If an amendment is carried, the motion as amended replaces the original motion. This then becomes the substantive motion to which any further amendments are moved.

(c) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments or, if there are none, put the amended motion to the vote.

18.7. Alteration of a Motion

18.7.1. A member may alter a motion of which he or she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

18.7.2. A member may alter a motion which he or she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

18.7.3. Only alterations which could be made as an amendment may be made.

18.8. Withdrawal of a Motion

A member may withdraw a motion which he or she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

18.9. Right of Reply

18.9.1. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

18.9.2. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

18.9.3. The mover of the amendment has no right of reply to the debate on his or her amendment.

18.10. Motions which may be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

18.10.1. to withdraw a motion;

18.10.2. to amend a motion;

18.10.3. to proceed to the next business;

18.10.4. that the question be now put;

18.10.5. to adjourn a debate;

18.10.6. to adjourn a meeting;

18.10.7. that the meeting continue beyond four hours in duration;

18.10.8. to exclude the public and press in accordance with the Access to Information Rules at Appendix A; and

18.10.9. to not hear further a member named under paragraph 24.3. below or to exclude them from the meeting under paragraph 24.4. below.

18.11. Closure Motions

18.11.1. A member may move, without comment, the following motions at the end of a speech of another member:

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) to adjourn a meeting.

18.11.2. If a motion to proceed to the next business is seconded and the chairman considers that the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

18.11.2. If a motion that the question be now put is seconded and the Chairman considers that the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed he or she will give the mover of the original motion a right of reply before putting his or her motion to the vote.

18.11.3. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman considers that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he or she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

18.12. Point of Order

A member may raise a point of order at any time. The Chairman will hear it immediately. A point of order may only relate to an alleged breach of these Rules of Procedure or the law. The member must indicate the rule or law and the way in which he or she considers it has been broken. The ruling of the Chairman on the matter will be final.

18.13. Personal Explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

18.14. Factual Comment

At the invitation of the Chairman, the Chief Executive, the Directors and the Legal Services Manager/Monitoring Officer (or person representing that officer) is to provide factual comment on any matter coming before the Council. The Chairman or Vice-Chairman, or his or her delegated independent member representative, of Standards Committee may attend meetings to provide explanations and/or answer questions concerning Standards Committee business.

19. PREVIOUS DECISIONS AND MOTIONS

19.1. A Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least five members.

19.2. A Motion Similar to one Previously Rejected

No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, is to be taken as a proposal unless the notice thereof given in pursuance of paragraph 18 above bears the names of at least five elected members of the Council. When any such motion or amendment has been disposed of by the Council, it is not open to any member to propose a motion within a further period of six months.

20. VOTING

20.1. Majority

Unless this Constitution provides otherwise, any matter is to be decided by a simple majority of those members voting and present in the room at the time the question was put

20.2. Chairman's Casting Vote

If there are equal numbers of votes for and against a motion or amendment, the Chairman will have a casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

20.3. Show of Hands

Unless a recorded vote is required under paragraphs 20.4. and/or 20.5. below, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

20.4. Recorded Vote

If a member present at a meeting formally requests it, the names for and against a motion or amendment or abstentions from voting will be taken down in writing and entered into the minutes.

20.5. Right to Require an Individual Vote to be Recorded

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

20.6. Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

21. MINUTES

21.1. Signing the Minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. He or she will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

21.2. No Requirement to Sign Minutes of a Previous Extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

21.3. Form of Minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

22. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. A record is also to be kept by the administrator of any member leaving the meeting part way through.

23. EXCLUSION OF THE PUBLIC

Members of the public and press may only be excluded in accordance with the Access to Information Rules at Appendix A or paragraph 25 below ('Disturbance by a member of the Public').

24. MEMBERS' CONDUCT

24.1. Speaking at a full Council Meeting

When a member speaks at full Council he or she should remain seated in order to facilitate effective use of the Council Chamber's amplification system. Speech should be directed, as far as possible, into the microphones. If more than one member indicates a wish to speak, the Chairman will ask one of those members to speak and the other(s) must wait until the Chairman invites them to speak. Other members should not attempt to address the meeting whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

24.2. Chairman Speaking

When the Chairman speaks during a debate, any Member speaking at the time must stop and the meeting must be silent.

24.3. Member not to be Heard Further

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member is not to be heard further. If seconded, the motion will be voted on without discussion.

24.4. Member to Leave the Meeting

If a member continues to behave improperly, offensively or to deliberately obstruct business after a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

24.5. General disturbance

If there is a general disturbance preventing conduct of orderly business, the Chairman may adjourn the meeting for as long as he or she considers necessary.

25. DISTURBANCE BY MEMBERS OF THE PUBLIC

25.1. Removal of a member of the public

If a member of the public interrupts proceedings, the Chairman is to warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

25.2 Clearance of Part of a Meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

26. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

26.1 Suspension

All of these Council Rules of Procedure except Rules 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council is present. Suspension can be for part of the meeting but cannot extend beyond the duration of the meeting.

26.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the full Council.

27. APPLICATION TO COMMITTEES AND BOARDS

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules applies to meetings of the Cabinet. Only Rules 3.3, 5, 8, 10, 14, 15, 18.12, 18.13, 18.14, 20, 21.1, 22, 23, 24.3, 24.4, 24.5, 25, 27, 28 and 29 apply to meetings of committees and boards.

28. QUORUM AT COMMITTEES AND BOARDS

The quorum of a meeting will be either one quarter of the whole number of members of the committee or board, or 3 members whichever shall be the greater. During any meeting, if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

Remaining business will be considered at a time and date fixed by the Chairman. If no date is fixed, the remaining business will be considered at the next ordinary meeting.

29. EXERCISE OF DELEGATED POWERS BY COMMITTEES AND BOARDS

29.1. Delegation to Committees and Boards

When a committee or board is dealing with an item of business within a power delegated to it by the Council and the agenda of the meeting indicates that it is intended that the committee or board will be exercising that delegated power, any three members of the Council may indicate, at the meeting to the Chairman before a vote is taken on the item, their wish that the delegation be suspended and the item be referred to the next Council meeting for decision, but that the exercise of this right shall not prevent the board from considering a recommendation to Council on the item.

29.2. Area Planning Committees

The procedure rule set out in Rule 29.1 above will not apply to planning applications or other development control matters which are considered by either area planning committees. However, any three members of the Council, or the Chairman of the appropriate area planning committee, can refer a planning application or development control matter to a joint meeting of the two area planning committees.

29.3. Special Meetings of Committees and Sub-Committees

Special meetings of the Council's Committees and Sub-Committees may be called by the Chairman, Vice-Chairman, or at the requisition of one-quarter of the ordinary members of the Committee or at the request of the Chief Executive, Monitoring Officer or Chief Financial Officer. When setting a date for a special meeting, every effort will be made to accommodate the needs of all members. However, the decision regarding the final date rests with the Chief Executive.

PART 4 - CABINET PROCEDURE RULES

1. INTRODUCTION

These rules apply only to the making of executive decisions by the Council, or other business conducted at Cabinet meetings, such as recommendations to the full Council. Executive decisions are either those which statute allocates to a local authority Cabinet or, in the case of certain local choice matters, those which the Council has decided will be Cabinet functions. There are currently three ways in which executive decisions may be made: either by the Cabinet at a Cabinet meeting; or by the Leader or a Portfolio Holder under powers delegated to him or her in these rules; or by officers employed by the Council under powers in the officers' delegation scheme (see Appendix B of Part 3 of the Constitution). Every executive decision must come within the budget and policy framework set by the Council (this includes amendments and additions adopted by Council subsequent to original approvals), or be the subject of a recommendation to the full Council.

2. EXECUTIVE DECISIONS

2.1. Executive decisions may be exercised by

2.1.1. the Cabinet in session;

2.1.2. the Leader or Portfolio Holders;

2.1.3. officers of the Council under their delegated powers.

3. PRINCIPLES OF DECISION MAKING

Part 1 of the Constitution details how decisions are made.

4. CABINET MEETINGS

4.1. The Cabinet will meet at least 10 times each year at times to be agreed by the Leader. It will meet at the Town Hall, Tunbridge Wells or another location to be agreed by the Leader. Special meetings may be called by the Leader, Deputy-Leader, or at the requisition of one-quarter of the ordinary members of the Cabinet, or at the request of the Chief Executive, Monitoring Officer or Chief Financial Officer. When setting a date for a special meeting of the Cabinet, every effort will be made to accommodate the needs of all members. However, the decision regarding the final date rests with the Chief Executive.

4.2. All meetings of the Cabinet will be held in public. These meetings will be governed by the Access to Information Procedure Rules contained at Appendix A. Where the Cabinet is considering reports on matters which contain confidential information it must pass a resolution to exclude the press and public during consideration of those reports and on matters which contain exempt information may pass a resolution to exclude the press and public during consideration of those reports, both in accordance with legislation and the Access to Information Rules at Appendix A.

4.3. The quorum for a Cabinet meeting will be three, inclusive of the Leader or Deputy Leader.

5. CABINET MEETINGS – ADDITIONAL

5.1. Normally the Leader or, in his or her absence, the Deputy Leader presides at Cabinet meetings.

5.2. Cabinet meetings are open to the public, except where the press and public are excluded by resolution (see 4.2 above). Where the meeting is open to the public, a member of the public or a representative of an organisation may speak at the invitation of the Leader in respect of an item of the agenda, but subject to the following time limits:

5.2.1. the total time for speaking on an item on the agenda is 12 minutes;

5.2.2. within that 12 minute period, each speaker has a maximum of 3 minutes;

5.2.3. in addition to the 12 minutes, Parish or Town Council representatives may be allocated a maximum of 3 minutes each;

5.2.4. where there are several speakers, they will be asked if it is possible to appoint a spokesperson to represent all views;

5.2.5. when these times have expired, speakers will not be allowed to speak further unless asked by the Leader to clarify a point of fact.

5.3. Non-executive members may attend Cabinet meetings and, after due notice to the Leader, will have the right to speak but not to vote at Cabinet meetings.

5.4. The Chief Executive will attend Cabinet meetings. Other Council officers may attend them with the agreement of the Chief Executive and the Cabinet. The Monitoring Officer and the Chief Financial Officer are entitled to attend when they have put items on the agenda as part of their statutory duties.

5.5. The Cabinet will decide all matters before it by simple majority. The Chairman will have a casting vote. If, immediately after a vote is taken, any member present at the meeting requests that his or her vote be recorded as voting for or against, or not voting, it will be so recorded in the minutes. A recording in the minutes of a vote or abstention will be made without explanation save that in cases where it is necessary for the avoidance of ambiguity, a brief note may be added at the member's request explaining the his or her reason for voting or not voting.

6. MEMBERS' QUESTIONS

6.1. Subject to giving at least 3 clear working days' written notice to the Chief Executive, any member may ask the Leader a question on any matter for which the Cabinet has powers or duties, or which affects the Borough and which falls within the Cabinet's terms of reference.

6.2. With the Leader's permission, and wherever possible by written notice by 5pm on the working day prior to a meeting, any member may ask the Leader an urgent question on any matter for which the Cabinet has powers or duties, or which affects the Borough and falls within the Cabinet's terms of reference.

6.3. The reply may take the form of a direct oral answer, a reference to information in a Council publication or other publication, or a written reply which is included in the minutes.

6.4. One supplementary question arising out of the question or the reply may be put by the member who asked the original question.

7. THE BUSINESS OF MEETINGS

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

7.1.1. consideration of the minutes of the previous meeting;

7.1.2. declarations of interest, if any;

7.1.3. questions from members of the Council in accordance with rule 6 above;

7.1.4. questions from members of the public;

7.1.5. matters previously referred to the Overview and Scrutiny Select Committees or 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 Procedure Rules set out in this Constitution;

7.1.6. consideration of reports from the Overview and Scrutiny Select Committees;

7.1.7. consideration of proposals for the budget and policy framework, prior to making decisions or recommendations on them;

7.1.8. consideration of the Forward Plan;

7.1.9. matters set out in the agenda, and which will indicate which are key decisions and which are not, in accordance with the Access to Information Rules at Appendix A .

7.2. Any member who wishes to exercise his or her right under paragraph 12(2) of the Code of Conduct is:

7.2.1. to notify the Chairman of the meeting in advance that he or she wishes to do so, giving such advance notice (including any question to be asked) as members of the public are required to give in respect of the meeting in question. The Chairman may waive this requirement at his or her discretion.

7.2.2. at the meeting is to state publicly, when declaring his or her personal and prejudicial interest that he or she intends to exercise his or her right under paragraph 12(2) to make a statement or ask a question (as appropriate) before leaving ahead of discussion on the item begins.

7.2.3. required by the Chairman to make his or her statement or to ask his or her question, etc, from the area of the room occupied by members of the public present at the meeting.

7.2.4. if they have exercised their rights under paragraph 12(2) of the Code of Conduct, required to leave the meeting room before any discussion of the item in which they have a personal and prejudicial interest takes place, but may be present in the room throughout the rest of the meeting.

7.2.5. to have no right under paragraph 12(2) of the Code of Conduct to make statements or ask or answer questions etc on items on which members of the public may not speak.

7.3. Questions and Statements, etc, from members of the public will be taken after questions and statements, etc, from members exercising their rights under paragraph 12(2) but must be taken in the same part of the meeting as questions and statements, etc, as members of the public.

8. AGENDA ITEMS

8.1. The Leader will decide the schedule for Cabinet meetings. He or she may put any item on the Cabinet agenda, whether or not authority has been delegated to the Cabinet or to any other body or person. The proper officer is to comply with the Leader's decisions.

8.2. Any Cabinet member may put an item on the Cabinet agenda for the next available meeting, and the proper officer is to comply.

8.3. The proper officer will put on the agenda for the next available meeting (ie the next meeting for which there is time to put items on the agenda and comply with the Access to Information Procedure Rules at Appendix A and legislation) such items as Council or any other Council committee has resolved be considered by Cabinet.

8.4. The Chief Executive may put any item on the Cabinet agenda for the next available meeting, and the proper officer is to comply.

8.5. The Monitoring Officer and the Chief Financial Officer in pursuance of their statutory duties may put items on the Cabinet agenda and require Cabinet meetings to be called, and the proper officer is to comply.

8.6. If one or more of the Head of Paid Service (Chief Executive), Monitoring Officer or Chief Financial Officer so require, the proper officer is to include on the Cabinet agenda such items requiring decisions as may be specified, and if one or more of them so requires a special Cabinet meeting it will be called.

8.7. Proper officer means the officer appointed by the Council to prepare and despatch agendas for Cabinet meetings and record decisions. If no other officer is appointed or is in post, the proper officer is the Chief Executive.

9. REPORTS

The Cabinet and Portfolio Holders may only take decisions on consideration of written reports from the relevant Council officer(s). Each report will include the observations of the Chief Financial Officer and the Monitoring Officer, and details of background papers. All reports from Cabinet members or officers on proposals relating to the budget and policy framework must include details of the nature and extent of consultation with stakeholders and the Select Committees, and the outcome of that consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

10. TYPES OF DECISION

There are several types of decision and the following rules apply to each of them:

10.1. Key decisions

Key decisions will only be taken at a Cabinet meeting (ie not by the Leader or a Portfolio Holder or an officer). A Key decision is defined in Part 1 of the Constitution.

Every matter which is to be the subject of a Key decision must have been included in the Forward Plan (see paragraph 14 of the Access to Information Procedure Rules at Appendix A to Part 4 of the Constitution) or fall within the General Exception (paragraph 15 of the Access to Information Procedure Rules at Appendix A) or comply with the Special Urgency conditions (paragraph 16 of the Access to Information Procedure Rules).

10.2. Portfolio Holder decisions

The Leader and Portfolio Holders are authorised to take executive decisions on all non-key matters within their respective portfolios. If the Leader or Portfolio Holder is considering taking a decision, which is contrary to its recommendation, the matter shall be referred to Cabinet for a decision.

10.3. Other Cabinet decisions

Within its terms of reference, the Cabinet is authorised to make:

10.3.1. decisions which are not key decisions and do not fall within the portfolios of the Leader or any Portfolio Holder or their respective delegations or the delegation to any officer;

10.3.2. decisions on matters which, whilst falling within a portfolio or delegation, the Chief Executive or other chief officers think it more appropriate to put on the Cabinet agenda for decision.

11. PORTFOLIOS

11.1. The Leader of the Council will, following their election to the office of Leader, advise the Annual Meeting (or such other Council meeting where he or she is elected to the office of Leader) the identities of those members whom he or she has appointed to the Cabinet. These will include:

11.1.1. the number of persons to form the Cabinet, which will be at least 2 but not more than 9 members (plus in each case the Leader), one of whom will be designated as Deputy Leader;

11.1.2. the description/nature of the allocation of responsibilities, powers and duties falling within each portfolio;

11.1.3. the names of the members to be Portfolio Holders and, for information, the portfolio to be held by each of them; and

11.1.4. neither the Leader nor any Portfolio Holder may be a member or substitute member of the Overview and Scrutiny Select Committees.

11.1.5. If for any reason a Portfolio Holder vacancy occurs during the year, or if a Portfolio Holder is suspended from the office of councillor, the Leader may fill it and such action will take effect immediately after notification has been received by the Proper Officer. The Leader may vary the arrangements described; she or he may do so by giving written notice to the Proper Officer, and the variation will take effect immediately after the Proper Officer has received the notice.

12. LEAD MEMBERS

12.1. At the Annual meeting of Full Council the Leader will present to Full Council his or her recommendations for up to eight Lead members who will support the work of Cabinet members and be the Council's member champion for their areas of defined responsibility. It will be in the Leader's discretion as to which, if any, Lead members he or she proposes.

12.2. No Lead member will have any executive decision-making power or delegated authority in his or her own right.

13. PORTFOLIO HOLDER DECISIONS – SUPPLEMENTARY RULES

The following additional rules apply to Portfolio Holder decisions:

13.1. If the Leader or a Portfolio Holder has a personal or prejudicial interest in any matter which he or she is requested to consider, he or she will immediately return the papers to the Democratic Services Manager and ask for them to be re-allocated. It is incumbent on Council officers to brief themselves as well as possible to avoid this situation arising.

13.2. If a Portfolio Holder is absent or unavailable for any reason, the Leader of the Council (or in his or her absence the Deputy Leader) may, by written notice to the Chief Executive, have power to temporarily re-allocate that portfolio to another Cabinet member until the next Cabinet meeting (when the Cabinet can decide the matter).

13.3. If a Portfolio Holder is unable to act for any reason (e.g he or she has a personal or prejudicial interest), the Leader of the Council is authorised to make the decision or in his or her absence or at his or her request, the Deputy Leader is authorised to make the decision. If the Leader is unable to act, the Deputy Leader is authorised to make the decision.

13.4. In respect of any ordinary business, the Leader or a Portfolio Holder may decline to decide the matter and instead ask the relevant chief officer to put it on the agenda for the next Cabinet meeting.

13.5. In respect of any urgent business, if the Portfolio Holder delays or declines to make a decision the Chief Executive will have power to seek a decision from the Leader or Deputy Leader.

13.6. Before making a decision, where necessary consideration shall be given to the need for further consultation or information.

13.7. Decisions will be published in accordance with Access to Information Procedure rule 24 and Overview and Scrutiny Procedure Rule 12. They will then be subject to call-in for 5 clear working days (including the day of publication) unless the decision has been specified as urgent in accordance with Overview and Scrutiny Procedure Rule 54 that its delay would seriously prejudice the Council's or the public's interests. For the avoidance of doubt, the obligation to publish under this paragraph applies only to executive decisions and not, for example, to recommendations to Council.

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES (Select Committees)

1. INTRODUCTION

1.1. These rules set out the Council's arrangements for overview and scrutiny. The Council intends that the overview and scrutiny process will operate independently of the Cabinet and executive decision making (defined in paragraph 12.1 below), so that councillors who are Select Committee members (or substitute members) will not also be in the Cabinet. These rules also include the arrangements for call-in, the process whereby executive decisions can be challenged, subject to the urgency provision in paragraph 14 below.

1.2. The responsibilities of the Select Committees are set out in Part 3 of the Constitution.

2. MEMBERSHIP, SELECT COMMITTEES, QUORUM AND CHAIRING

2.1. The Select Committees will consist of a number of elected members fixed at the Annual meeting of the Council, as varied from time to time by full Council. The substitutes and proportionality rules will apply. A substitute member in attendance at a meeting has the same powers and duties of any ordinary member for whom she or he is a substitute. The substitute member must notify the Chairman of his or her status at the start of the meeting and once such notice has been given, she or he cannot be replaced, including by the ordinary member, meaning the substitute is in place for the whole of the meeting unless it is adjourned to another day.

2.2. The Select Committees will each be entitled to appoint non-voting persons who are not elected members as co-opted advisors. Substitutes for co-optees are not permitted.

2.3. The Chairmen and Vice-Chairmen of the Select Committees will be councillors appointed by the Council from the respective Select Committee members. At least one Chairman or Vice-Chairman of the Select Committees will be appointed from non-majority group members. If, at any meeting, neither the Chairman nor the Vice-Chairman are present, the first business is to elect a Chairman for the meeting from those present. The Chairman of the Overview and Scrutiny Management Group will be the Chairman of the Economic and Governance Select Committee.

2.4. The quorum for meetings will be four of the ordinary members or substitute members, excluding co-optees.

3. MEETINGS

There will be at least five ordinary meetings of the Select Committees each year. Special meetings may be called by the Chairman, Vice-Chairman, or at the requisition of a quarter of the ordinary members of the Committee or at the request of the Chief Executive, Monitoring Officer or Section 151 Officer. When setting a date for a special meeting every effort will be made to accommodate the needs of all members. However, the decision regarding the final date rests with the Chief Executive.

4. WORK PROGRAMME

Select Committees will set their own work programmes and in doing so will take into account the views of all members of the Committee. The Overview and Scrutiny Management Group will coordinate the work of the three Select Committees to avoid duplication. The programmes will include provision for scrutiny of the Council's policy framework.

5. AGENDA ITEMS

5.1. Any member of a Select Committee is entitled to give notice to the Overview and Scrutiny Manager of an agenda item falling within the terms of reference of the Committee or subsidiary body. The item is then to be included in the next available agenda.

5.2. Furthermore members are entitled to give notice to the Proper Officer that they wish an item relating to their ward, which is relevant to the functions of the Committee or Sub-Committee of which they are not a member, to be included on the agenda for the next available meeting of the Committee or Sub-Committee as "A Councillor Call for Action" (CCfA). On receipt of such a request the Chairman of the relevant Select Committee will determine with the proper officer whether to take it forward. If it is agreed the item should be progressed, the Proper Officer will ensure it is included on the next available agenda in accordance with the Councillor Call for Action Protocol at Appendix B to Part 4 of the Constitution. In putting forward such a request the member must have regard to the Councillor Call for Action requirements at Appendix B and any appropriate government guidance. The member concerned will be able to make representation to the Committee or Sub-Committee, when it considers whether to take an item forward for scrutiny. The Committee should consider the extent to which the member has exercised any power given to him under section 236 Local Government and Public Involvement in Health Act 2007. If the matter is a crime and disorder issue, responsible authorities (Crime and Disorder Reduction Partnership Members) are to be notified by the proper officer. The Proper Officer is also to give regard to the guidance from the Secretary of State regarding matters that must not be referred to an Overview and Scrutiny Committee as follows:

5.2.1. a planning decision;

5.2.2. a licensing decision;

5.2.3. an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment; or

5.2.4. vexatious, discriminatory or not reasonable issues.

However, a matter which consists of an allegation of systematic failure of the authority to discharge a function for which it is responsible may be referred to a Select Committee, notwithstanding the fact that the allegation specifies matters which would otherwise be excluded by virtue of Part 2 of the Constitution.

Councillor Call for Action requirements are set out in Appendix B of Part 4 of the Constitution.

6. POLICY DEVELOPMENT AND REVIEW

6.1. The role of the Select Committees in relation to the development of the Council's budget is set out in detail in the Budget and Policy Framework Procedure Rules in Part 5.

6.2. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Select Committees may make proposals to the Cabinet or the Council in so far as they relate to matters within their terms of reference. Any Select Committee may hold inquiries and investigate options available for future policy development.

6.3. The Select Committees may appoint advisers and assessors to assist them in their work. They may arrange site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may also ask witnesses to attend to address them on any matter under consideration.

6.4. The Select Committees may offer payment of a reasonable fee and expenses to advisors, assessors and witnesses for work undertaken and attending meetings to provide evidence and/or advice, which will be funded either from a budget allocated to them or from specific funds allocated by the executive.

7. REPORTS FROM THE SELECT COMMITTEES

7.1. Once a Select Committee has formed recommendations on the matters under consideration they are to prepare a formal report and submit it for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council, as appropriate, (e.g if the recommendation would require a departure from, or a change to, the agreed budget and policy framework). If the report deals with matters within the delegations to the Leader or a Portfolio Holder, it will also be submitted to the Leader or relevant Portfolio Holder for consideration.

7.2. If a Select Committee cannot agree on a final report, then a separate, minority, report may also be prepared and submitted for consideration with the majority report to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g if the recommendation would require a departure from, or a change to, the agreed budget and policy framework). If the minority report deals with matters within the delegations to the Leader or a Portfolio Holder, it will also be submitted to the Leader or relevant Portfolio Holder for consideration.

7.3. The Council or the Cabinet will consider reports from Select Committees at the next meeting, subject to compliance with the Access to Information rules at Appendix A and current legislation.

8. CABINET CONSIDERATION OF SELECT COMMITTEE REPORTS

8.1. The agenda for Cabinet meetings will include an item entitled "Consideration of Reports from the Overview and Scrutiny Select Committees". The reports of the Select Committees referred to the Cabinet will be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) at the next available meeting, subject to compliance with the Access to Information rules at Appendix A and legislation. The Cabinet's responses to reports are to be reported to the next available meeting of the relevant Select Committee.

8.2. Before a Select Committee report is reported to Council, the Overview and Scrutiny Manager is to ensure it is also given to the Leader and any Portfolio Holder(s) whose portfolios might be affected.

He or she is also to consider whether the report should be considered by the Cabinet before it is taken to full Council, e.g because it impacts on the budget and policy framework, and may put the report on the Cabinet agenda for that purpose. Subject to this and compliance with the Access to Information rules and legislation, the item will be placed on the next available Council agenda.

8.3. The Select Committees will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation.

9. RIGHTS OF SELECT COMMITTEE MEMBERS TO REPORTS

9.1. In addition to their rights as councillors, members of the Select Committees have the additional right to information, and to notices of meetings, as set out in the Access to Information rules at Appendix A.

9.2. In some circumstances it may be appropriate for more detailed information sharing to take place between the Executive, Cabinet and the members of the Select Committees. Nothing in this paragraph prevents more detailed liaison.

10. MEMBERS AND OFFICERS GIVING ACCOUNT

10.1. Within their terms of reference, Select Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function.

10.2. In fulfilling the scrutiny role, the Select Committees may require the Leader of the Council, Portfolio Holders, the Chief Executive and other chief officers to attend meetings to explain matters in relation to their respective remits:

10.3. Where required to under Rule 10.2 above, it is the duty of the relevant person to attend, subject to the Chairman of the Select Committee seeking to meet the relevant person's reasonable requirements as to the date and time of the attendance, and at least five clear working days' notice will be given. Where the relevant person is required to produce a report, reasonable time must be allowed for its preparation.

11. ATTENDANCE BY OTHERS

11.1. Members of Council, Parish and Town Council members and members of the public have the right to attend Select Committee meetings.

11.2. Members of Council who attend under this rule are entitled to speak but not to vote at meetings, provided they have given prior notice to the Chairman.

11.3. A Select Committee may invite other people to address it, discuss issues of local concern and answer questions. It may, for example, wish to hear from residents, other stakeholders, members and officers in other parts of the public sector or in grant-aided organisations or the voluntary sector. The Overview and Scrutiny Manager will issue invitations, attendance is optional and the Council will meet reasonable travel and subsistence costs.

11.4. Any member who wishes to exercise his or her right under paragraph 12(2) of the Code of Conduct is to:

11.4.1. Notify the Chairman of the meeting in advance that he or she wishes to do so, giving such advance notice (including notice of any question to be asked) in the same way that members of the public are required to give in respect of the meeting in question. The Chairman may waive this requirement at his or her discretion.

11.4.2. At the meeting, the member is to state publicly, when declaring his or her personal and prejudicial interest that he or she intends to exercise his or her right under paragraph 12(2) to make a statement or ask a question (as appropriate) before leaving in advance of discussion on the item beginning.

11.4.3. The member will be required by the Chairman to make his or her statement, or to ask a question etc from the area of the room occupied by members of the public present at the meeting.

11.4.4. Questions and Statements etc from members of the public will be taken before questions and statements etc from members exercising their rights under paragraph 12(2), but must be taken in the same part of the meeting as questions and statements etc as by members of the public.

11.4.5. Members who have exercised their rights under paragraph 12(2) of the Code of Conduct will be required to leave the meeting room before any discussion of the item in which they have a personal and prejudicial interest takes place, but may be present in the room throughout the rest of the meeting.

11.4.6. Members have no right under paragraph 12(2) of the Code of Conduct to make statements, ask or answer questions etc on items on which members of the public may not speak.

12. CALL-IN

12.1. Call-in is the procedure whereby a decision of the Cabinet, the Leader or a Portfolio Holder, or a member or officer with delegated executive authority, taken but not implemented may be examined by a Select Committee prior to implementation. In paragraphs 12, 13, and 14 of these rules, decisions referred to in the previous sentence are called executive decisions. A Committee may recommend that the Cabinet, the Leader or Portfolio Holder, or a member or officer with delegated executive authority, reconsider the decision. A decision may only be subject to the call-in procedure once. The procedure will not apply to decisions to which the urgency procedure in 14 of these rules is applied, to decisions taken by Council officers, or to recommendations or decisions of, to full Council.

12.2. As soon as possible after an executive decision as referred to in paragraph 12.1 above is made, and normally within two clear working days, the Chief Executive will notify the decision to all Council members and a note of the decision will be available at the Town Hall, Tunbridge Wells. The notice may be given by paper, fax or e-mail.

12.3. The notice is to include the publication date and is to specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called-in for scrutiny to a Select Committee.

12.4. During the call-in period, either the Chairman of the relevant Select Committee or at least three Council members not serving on the Executive and not co-optees, can by notification to the Overview and Scrutiny Manager request call-in.

The notification must be in writing or by fax bearing the signature(s) of the Council member(s) initiating the call-in, or by e-mail which, if from several members, will require a separate email from each of them.

12.5. A notice invoking the call-in procedure must meet at least one of the following grounds in support of the request for call-in of a decision:

12.5.1. inadequate consultation with stakeholders prior to decision;

12.5.2. the absence of adequate evidence on which to base a decision;

12.5.3. the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;

12.5.4. the action is not proportionate to the desired outcome;

12.5.5. is a potential human rights challenge;

12.5.6. insufficient consideration of legal and financial advice; or

12.5.7. is not within the Cabinet's powers or terms of reference or the portfolio of the Leader or Portfolio Holder or member or Officer with delegated executive powers who took it.

12.6. The Chief Executive, in consultation with the relevant Select Committee Chairman and Vice-Chairman, having taken legal advice and, if appropriate, other professional advice, may reject a request for call-in if, in his or her opinion, it fails to meet any of the grounds listed in paragraph 12.5 above, or if she or he considers it is in any way vexatious, frivolous or otherwise inappropriate. Examples include, but are not limited to:

12.6.1. the cited grounds bear no relevance to the decision that is identified for call-in the requisition cites grounds for which no evidence is produced in support;

12.6.2. those requisitioning the call-in signed the requisition before it was complete (eg signed a blank form in advance);

12.6.3. the call-in includes material which could be defamatory;

12.6.4. the requisition is being used for an improper purpose (eg to admonish an officer).

13. REFERRAL TO A SELECT COMMITTEE

13.1. Once an executive decision is called-in, it will not be implemented until the relevant Select Committee has met. On receipt of the call-in requisition, it is the duty of the Overview and Scrutiny Manager to notify the decision taker(s) and to arrange with the relevant Select Committee Chairman (unless a scheduled meeting is about to take place where the call-in can be considered and determined). The meeting is to take place within five working days of the end of the call-in period; if this is not achieved it is in the discretion of the decision taker(s) whether to wait before implementation. Whilst every effort will be made to accommodate the needs of all members, the decision regarding the final date rests with the Chief Executive.

13.2. The Select Committee will consider the executive decision and the reasons for call-in. The Committee may invite the Leader and/or relevant Portfolio Holders, and a representative of those calling in the executive decision to provide information at the meeting. Council officers are to provide the Committee with all the information held by them which was available to the decision taker(s) and, if requested, be available to answer questions from Committee members.

13.3. Without prejudice to any other resolutions they may adopt (eg as to future conduct) the Select Committee are to come to one of the following conclusions:

13.3.1. the challenge to the decision should be taken no further; or

13.3.2. the decision is to be referred for further consideration, in which case the nature of its concerns and reason(s) are to be cited; or

13.3.3. the matter should be referred to full Council, in which case the nature of its concern(s) and reason(s) are to be cited.

13.4. Where the Select Committee decide to take no further action on a call-in or do not refer the decision for further consideration, the decision may be implemented at any time after the Committee's decision.

13.5. Where a called-in Cabinet decision is referred for further consideration, it shall be reconsidered by the Cabinet and the reason(s) cited by the Select Committee will be considered. If a cited reason includes non-compliance with the policy and/or budget framework, Cabinet will consider the need to seek full Council's agreement to amend the policy and/or budget framework. If the Cabinet decides not to seek agreement of full Council in these circumstances, it will ensure that the minutes record why it is of that view and, if the view is not unanimous, any dissenting view(s) will also be recorded.

13.6. Where a called-in decision by the Leader or a Portfolio Holder is referred for further consideration, the Leader or, in his/her absence or where the Leader has a conflict of interest (this includes if the Leader made the original decision), the Deputy Leader is to decide whether:

13.6.1. to refer the matter back to the Leader or Portfolio Holder who made the original decision;

13.6.2. to decide the matter him or herself; or

13.6.3. to refer the matter to Cabinet for decision.

- (a) If a matter is referred to full Council the meeting is to be convened within five days of the referral. If the Council doesn't object to a decision which has been made then no further action is necessary and the decision will become effective on the date of the full Council meeting. However, if the Council does object, it has not locus to make decisions in respect of executive decisions unless it is contrary to the budget and/or policy framework. Unless that is the case the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making person or body is then to choose whether or not to amend the decision prior to reaching a final decision and implementing it.

- (b) Whichever of these options is adopted, the decision and the reasons cited by the Select Committee will be considered. If a cited reason includes non-compliance with the policy or budget framework, consideration will be given to the need to seek full Council's agreement to amend the policy or budget framework. If it is decided not to seek agreement of full Council in these circumstances, and the Cabinet is considering the matter, it will ensure that the minutes record why Cabinet is of that view and, if the view is not unanimous, any dissenting view(s) shall also be recorded. If the consideration is being undertaken by the Leader or a Portfolio Holder, or a member or officer with delegated executive powers, and a cited reason includes non-compliance with the policy and/or budget framework, and the Leader or Portfolio Holder decides not to seek agreement of full Council, that will be recorded and reported to Cabinet for inclusion in the Cabinet's minutes.

13.7. Once an executive decision has been considered by Council, Cabinet, the Leader or a Portfolio Holder following reference from a Select Committee, it will be capable of immediate implementation if the person or body giving the consideration decides to confirm the original decision. If the decision is not confirmed, it falls and will not be implemented.

13.8. In order to facilitate consideration under the call-in arrangements, it will be at the discretion of the Leader of the Council (or in his absence, or if a conflict of interests prevents him from doing so, the Deputy Leader) or the Chief Executive to call such full Council and Cabinet meetings as are necessary.

13.9. If Council meets, whether at an ordinary or extraordinary meeting, to consider amending the budget and/or policy framework in pursuance of a recommendation by a Select Committee that an executive decision is not in compliance with them, Council can decide either that there is compliance, or to amend the framework to achieve compliance in which case the decision can be implemented (provided there are no other outstanding reasons from the Select Committee), or to decline to amend the framework, in which case the decision will not be implemented.

14. CALL- IN AND URGENCY

The call-in procedure will not apply where an executive decision is urgent. If an executive decision is to be urgent, the report on which it is based must include the statement that the provisions of this paragraph are applied as well as the minute or other decision record. An executive decision will be urgent if any delay likely to be caused by a call-in or the process would seriously prejudice the Council's or the public's interests. For these provisions to apply, the prior agreement of the Chairman of the relevant Select Committee or the Mayor must be obtained in writing, or by fax or email, and the request for his or her signature must set out why the matter is so urgent as to nullify the call-in process. Prior agreement means prior to the taking of the decision. The Chief Executive will report to each ordinary Council meeting on the use of this provision.

15. THE PARTY WHIP

15.1. The Party Whip will be defined as "any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor should speak or vote on any matter before a Select Committee or the Select Committees' Management Group, or the application or threat to apply any sanction by the group in respect of that councillor should she or he speak or vote in any particular manner".

15.2. When considering any matter in respect of which a member of a Select Committee or the Select Committees' Management Group is subject to a party whip, the member must declare the existence of the whip, and the nature of it before the commencement of the deliberations at the meeting on the matter. The declaration, and the detail of the whipping arrangements, are to be recorded in the minutes of the meeting.

16. PROCEDURE AT SELECT COMMITTEE MEETINGS

16.1. The Select Committees will consider the following business:

16.1.1. minutes of the last meeting;

16.1.2. declarations of interest;

16.1.3. call-in requisitions;

16.1.4. Cabinet responses to any references or reports; and

16.1.5. other business.

16.2. Where investigations are conducted (eg with a view to policy development), the Select Committee may ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

16.2.1. that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

16.2.2. that those assisting the Committee by giving evidence be treated with respect and courtesy; and

16.2.3. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

16.3. Following any investigation or review, the Select Committee will prepare a report for submission to the Cabinet and/or Council and/or the Leader/Portfolio Holder(s), as appropriate, and will (subject to not breaching confidence, publishing exempt or confidential information or defamation) make its report and findings public.

17. MATTERS WITHIN THE REMIT OF MORE THAN ONE SELECT COMMITTEE

Where a matter for consideration by a Select Committee is potentially within the terms of reference of more than one of them, the Overview and Scrutiny Management Group will decide which shall deal with it.

18. PROCEDURE RULES FOR THE COMMUNITIES AND PARTNERSHIPS SELECT COMMITTEE WHEN ACTING AS THE CRIME AND DISORDER OVERVIEW AND SCRUTINY COMMITTEE

18.1. Co-option of Additional Members

The Communities and Partnerships Select Committee may co-opt additional members from those persons and bodies who are responsible authorities within the meaning of section 5 of the Crime and Disorder Act 1988, and from those persons and bodies with whom the responsible authorities have a duty to co-operate under section 5(2) of that Act (the “co-operating persons and bodies”), subject to the provisions set out in that regulation. To the extent of their membership, co-opted members have the same entitlement to vote as any other member.

18.2. Frequency of Meetings

The Communities and Partnerships Select Committee will meet to carry out the functions required as the crime and disorder committee to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions, no less than twice in every twelve month period.

18.3. Requests for Information

Responsible authorities or co-operating persons or bodies are expected to provide such information requested of them by the crime and disorder committee, subject to the provisions in that regulation.

18.4. Attendance of Responsible Authorities

The Communities and Partnerships Select Committee, when carrying out the functions of the crime and disorder committee, may require the attendance of a representative of a responsible authority or of a co-operating person or body in order to seek answers to questions, subject to the provisions in that regulation.

18.5. Reports and Recommendations to Responsible Authorities

18.5.1. When the Communities and Partnerships Select Committee, carrying out the functions of the crime and disorder committee, makes a report or recommendations to a responsible authority and co-operating persons or bodies in accordance with section 19(8)(b) of the Police and Justice Act 2006, the responses to such reports or recommendations of each relevant authority, body or person are to be in writing and completed within 1 month from the date of the report or recommendations or, if this is not reasonably possible, as soon as possible thereafter.

18.5.2 The Communities and Partnerships Select Committee are to review such responses and monitor the action (if any) taken by the relevant responsible authorities, co-operating persons or bodies in accordance with its powers under section 19(1) of the 2006 Act.

Access to Information Procedure Rules

1. SCOPE

Access to Information Procedure rules apply to all meetings of the full Council, Cabinet, Council Committees and Sub-committees (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this 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 working days notice of any meeting by posting details at the Town Hall, Royal Tunbridge Wells.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make available for inspection copies of the agenda and reports open to the public at the designated office at least five clear working days before the meeting. Where reports are prepared after the summons has been sent out, the designated officer will make each such report available to the public as soon as it is completed and sent to councillors. If an item is added to the agenda later, the revised agenda will be open to inspection from the time it was added to the agenda.

6. SUPPLY OF COPIES

The Council will supply, to any person on payment of a charge for postage and any other costs, copies of:

- 6.1. any agenda and reports which are open to public inspection;
- 6.2. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.3. if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item.

7. ACCESS TO MINUTES, ETC, AFTER THE MEETING

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

- 7.1. minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Council, Cabinet and Council Committees, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclosed exempt or confidential information;

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

7.3. the agenda for the meeting; and

7.4. reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1. List of Background Papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his or her opinion:

8.1.1. discloses any facts or matters on which the report or an important part of the report is based; and

8.1.2. which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political adviser.

8.2. Public Inspection of Background Papers

The Council will, for four years after the date of the meeting, make available for public inspection one copy of each of the documents on the list of background papers.

9. SUMMARY OF MEMBERS OF THE PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect, and copy documents must be kept at and available to the public at the Town Hall, Royal Tunbridge Wells.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1. Confidential Information – Requirement to Exclude Members of the Public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2. Exempt Information – Discretion to Exclude Members of the Public

10.2.1. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. (Exempt information must fall within 1 or more of the specific categories set out in the Local Government (Access to Information) (Variation) Order 2006).

10.2.2. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons as defined in the numbered Paragraphs taken from that Act as shown at paragraph 10.4. below.

10.3. Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4. Meaning of Exempt Information

Exempt information means that which falls in the following categories:

10.4.1. relating to any individual (Paragraph 1);

10.4.2. which is likely to reveal the identity of an individual (Paragraph 2);

10.4.3. relating to the financial or business affairs of any particular person, including the authority holding that information (Paragraph 3);

10.4.4. 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 (Paragraph 4);

10.4.5. in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Paragraph 5);

10.4.6. which reveals that the authority proposes (Paragraph 6):

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

(b) to make an order or direction under any enactment.; or

10.4.7. relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime (Paragraph 7).

10.5. Information is not exempt where:

10.5.1. it falls within the category at 10.4.3. and is not exempt information by virtue of that paragraph if it is required to be registered under:

(a) the Companies Act 1985;

(b) the Friendly Societies Act 1974;

(c) the Friendly Societies Act 1992;

(d) the Industrial and Provident Societies Acts 1965 to 1978;

(e) the Building Societies Act 1986; or

(f) the Charities Act 2006.

10.5.2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10.5.3. Information which:

- (a) falls within any of paragraphs 1 to 7 at 10.4.1. to 10.4.7 inclusive and
- (b) is not prevented from being exempt by virtue of paragraph 10.4.1. or 10.4.2. above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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 or her 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 "Not for publication" together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE CABINET

12.1. Rules 13 – 24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Part 2 of this Constitution.

12.2. If the Cabinet or its committees meet to take a decision which is not a key decision then it must also comply with Rules 1-11 unless Rules 15 and 16 apply.

12.3. If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Part 2 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

13.1. a notice (called here a forward plan) has been published in connection with the matter in question;

13.2. at least 5 clear working days have elapsed since the publication of the forward plan; and

13.3. 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 4 (notice of meetings).

14. THE FORWARD PLAN

14.1. Period of Forward Plan

Forward plans will be prepared by the Leader to cover a period of at least four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2. Contents of Forward Plan

14.2.1. The forward plan will contain, as a minimum, matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
 - (i) where the decision taker is an individual, his or her name and title, if any, and where the decision taker is a body, its name and details of membership;
 - (ii) the date on which, or the period within which, the decision will be taken;
 - (iii) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - (iv) the means by which any such consultation is proposed to be undertaken;
 - (v) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
 - (vi) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (b) The forward plan must be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:
 - (i) that key decisions are to be taken on behalf of the Council;
 - (ii) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
 - (iii) that the plan will contain details of the key decisions to be made for the four month period following its publication;
 - (iv) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices and the Gateway;
 - (v) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;

(vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;

(vii) that other documents may be submitted to decision takers;

(viii) the procedure for requesting details of documents (if any) as they become available; and

(viii) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

(c) Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION

15.1. Where the inclusion of a matter in the forward plan is impracticable and the matter would be a key decision, that decision will only be made:

15.1.1. where the proper officer has informed the chairman of the relevant select committee or, if there is no such person, each member of the relevant select committee, by notice in writing, of the matter about which the decision is to be made;

15.1.2. where the proper officer has made available at the offices of the Council for inspection by the public a copy of the notice given pursuant to paragraph 15.1.1. above; and

15.1.3. after five clear working days have elapsed following the day on which the proper officer made available the notice referred to in paragraph 15.1.2. above.

15.2 Where Rule 15. 1.1 above applies to any matter, Rule 14 need not be complied with in relation to that matter.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (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 a relevant select committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant select committee, or if the chairman of each relevant select committee is unable to act, then the agreement of the Mayor, or in his or her absence the Deputy Mayor, will suffice.

17. REPORT TO COUNCIL

17.1. When a Select Committee can Require a Report

The Select Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies if it considers that a key decision has been taken which was not:

17.1.1. included in the forward plan; or

17.1.2. the subject of the general exception procedure; or

17.1.3. the subject of an agreement with a relevant select committee chairman, or the chairman/vice chairman of the Council under Rule 16;

The power to require a report rests with the committee, but is also delegated to the proper officer, who is to obtain such a report on behalf of the Committee when so requested by the chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the appropriate Select committee.

17.2. Cabinet's Report to the Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the next meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3. 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 16 (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.

18. 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 and any alternative options considered and rejected at that meeting.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

All Cabinet meetings, subject to Rule 10 above, will be held in public.

20. ATTENDANCE BY MEMBERS OF THE COUNCIL AT MEETINGS OF THE CABINET

Any member of the Council will have the right to attend a meeting of the Cabinet or its committee (if any) of which he or she is not a member and, after due notice to the chairman, may speak but not vote on any decision.

21. ATTENDANCE BY OFFICERS AT MEETINGS OF THE CABINET

21.1. The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.

21.2. A Cabinet meeting may only take place in the presence of the proper officer or his or her nominee with responsibility for recording and publicising the decisions.

22. NOTICE OF MEETINGS OF THE CABINET

The Council will give at least five clear working days notice of any meeting of the Cabinet by posting details of the meeting at the Town Hall, Royal Tunbridge Wells.

23. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

23.1. All members of the Council will receive copies of all papers relating to meetings of the Cabinet.

23.2. The Council will make available for inspection copies of the agenda and reports relating to meetings of the Cabinet, and which are open to the public, at the designated office at least five clear working days before the meeting. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

23.3. The Council will supply copies of:

23.3.1. any agenda and reports which are open to public inspection;

23.3.2. any further statements or particulars necessary to indicate the nature of the items in the agenda; and

23.3.3. ,if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

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

24. APPLICATION OF RULES TO THE PORTFOLIO HOLDERS

24.1. The Leader and Portfolio Holders are authorised to take executive decisions on all non-key matters within their respective portfolios.

24.2. Decisions taken by Portfolio Holders will be published every Friday. The Council will supply copies of any report and decision taken which are open to public inspection and, if the proper officer thinks fit, copies of any other documents in connection with an item on payment of a charge for postage and any other costs.

25. SELECT COMMITTEE ACCESS TO DOCUMENTS

25.1. Rights to Copies

Subject to Rule 25.2 below, the Select Committees 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:

25.1.1. any business to be transacted at a public or private meeting of the Cabinet or its committees; or

25.1.2. any decision taken by an individual member of the Cabinet. (**NOTE:** see Part 3, Responsibility for Executive Functions).

25.2. Limit on Rights

The Select Committees will not be entitled to:

25.2.1. any document that is in draft form;

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

25.2.3. the advice of a political adviser.

26. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

26.1. Material Relating to Previous Business

All members 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 previously transacted at a meeting unless either paragraph 26.1.1. or paragraph 26.1.2. below applies.

26.1.1. it contains exempt information falling within paragraphs 10.4.1., 10.4.2., 10.4.4, 10.4.5. and 10.4.7. as above, of the categories of exempt information, or where it falls within paragraph 10.4.3. then disclosure is not required where it relates to any terms proposed by or to the Council in the course of negotiations for a contract.

26.1.2. it contains the advice of a political adviser.

Subject to the advice of the appointed proper officer, members may, in certain circumstances, be able to inspect a wider range of documents on a confidential basis if it is shown to be necessary to carry out their role as councillors.

26.2. Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 26.1.1. or paragraph 26.1.2. above applies.

26.3. Nature of Rights

These rights of a member are additional to any other rights he or she may have.

COUNCILLOR CALL FOR ACTION REQUIREMENTS

1. Introduction

1.1. Councillor Call for Action (CCfA) seeks to strengthen the role of the ward members, encouraging them to resolve local problems on behalf of residents. The Act allows ward members to place CCfAs on Overview and Scrutiny Select Committees' agendas for resolution and action. The legislation introduced under the Local Government and Public Involvement in Health Act 2007 extends the power of overview and scrutiny in two ways as follows:

1.1.1. so that any member of the Council can refer a local government matter to a Select Committee; and

1.1.2. that issues which can be referred include matters which the Council and its partners are delivering through the Local Area Agreement and local crime and disorder matters.

1.2. The CCfA best practice guidance released by the Centre for Public Scrutiny (CfPS) and the Improvement and Development Agency (IDeA) refers to the importance of concentrating on outcomes rather than process when dealing with CCfAs. This is therefore a light touch approach.

1.3. This appendix outlines what constitutes a CCfA, what should be excluded and the process for dealing with it and also applies to CCfAs related to crime and disorder as well as local government matters.

2. What is Councillor Call for Action?

2.1. CCfA was introduced to strengthen the role of ward members. It is a process for a member to act on behalf of residents to resolve a local issue of concern, acting as a last resort for those who cannot get issues resolved through any other means, and this can include crime and disorder matters.

2.2. Local Government Matters

Under section 21A, a CCfA needs to relate to a "local government matter". This could be interpreted narrowly to mean only those issues under the direct control of the authority. However, to give full effect to CCfA the interpretation of a "local government matter" is broader. This includes issues relating to the Council's partners in line with the focus of the Comprehensive Area Assessment (CAA), and an authority's duties which increasingly impact on other organisations, and involves partners within and outside the Local Strategic Partnership (LSP). [The Councillor Call for Action, Best Practice Guidance, IDeA and CfPS, 2009]

3. Matters which cannot be raised as a Councillor Call for Action

3.1. The following matters have been excluded under section 21A of the Local Government Act 2000, introduced under section 119 of the Local Government and Public Involvement in Health Act, 2007:

3.1.1. any matter relating to a planning decision;

3.1.2. any matter relating to a licensing decision;

3.1.3. any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

3.1.4. any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Select Committee or one of its sub-committees.

4. CCfA Process

4.1. In accordance with the national best practice guidance overview and scrutiny should be the last stop for a CCfA. The expectation will be on the ward member to have tried to resolve an issue using all available mechanisms (including partnership working when appropriate) prior to referring the matter to a Select Committee. When a matter is referred to a Select Committee it will be up to the relevant Chairman and the Proper Officer to decide whether the matter is progressed and taken forward by a Select Committee. If the CCfA relates to a crime and disorder matter then it must be referred to the Crime and Disorder Select Committee which, in Tunbridge Wells Borough Council is the Communities and Partnership Select Committee.

4.2. Referral for Overview and Scrutiny

4.2.1. The Chairman of the relevant Select Committee will then determine with the Proper Officer whether to take the CCfA forward and will, within 5 working days, inform the ward member whether they will accept the CCfA. If the CCfA is a crime and disorder related matter then responsible partners must be notified (These are the Crime and Disorder Reduction Partnership (CDRP) Members).

4.2.2. Reasons a Chairman may not take the CCfA forward to a Select Committee could include:

- (a) not enough information has been provided;
- (b) more could be done to resolve the issue at a local level, e.g. key people have not been contacted;
- (c) the CCfA is, or has stemmed from, a vexatious, discriminatory or unreasonable complaint;
- (d) the matter has recently been examined by Overview and Scrutiny (though the ward members may argue that certain aspects were not sufficiently covered hence a need for a CCfA);
- (e) the matter is the subject of an ombudsman complaint or other official complaints procedure; or
- (f) the matter falls under excluded matters (see paragraph 3 above)

4.2.3. If a CCfA is rejected for consideration by Overview and Scrutiny the ward member will be notified in writing within 5 working days of lodging the CCfA. Where it is a Crime and Disorder CCfA all responsible partners (CDRP Members) must be notified.

Ward members will have the opportunity to reply to the Chairman, if appropriate providing further information to substantiate the CCfA.

4.2.4. If the CCfA is accepted, the relevant Cabinet members, officers and partners will be notified by the Chairman.

4.3. Ward Member Process for Resolution of a CCfA

A ward member is to adhere to the following stages in order to define and agree a resolution for a CCfA:

4.3.1. identify a public request or issue for action ;

4.3.2. if within a multi-member ward discuss with other ward members, and agree action;

4.3.3. take steps to resolve the issue through existing mechanisms such as liaising with partners, county and town/parish members or raising the matter with officers; and

4.3.4. if unresolved and the matter can be taken no further by the ward member it is to be referred it to the Chairman of the relevant Select Committee by completing a CCfA application form and submitting it to the Proper Officer (the Overview and Scrutiny Manager) for action;

4.3.5. The Select Committee is then to either:

(a) accept the CCfA and arrange to consider it, notifying partners as appropriate; or

(b) reject the CCfA and notify the member who in turn should inform the public.

Following which they will determine their response and relay this to the member and partners as appropriate.

5. Process for Dealing with a CCfA by a Select Committee

5.1. The Chairman and Proper Officer will determine if a special meeting outside the calendar of meetings is required and, if so, call one. If not, the CCfA will be dealt with at the next available meeting of the Committee.

5.2. The Chairman in consultation with the ward member and the Overview and Scrutiny Team when considering the meeting requirements are to give consideration to:

5.2.1. witnesses;

5.2.2. notifying and Inviting partners;

5.2.3. what evidence is required;

5.2.4. key questions to be asked;

5.2.5. timescales; and

5.2.6. the aims and objectives for the meeting.

5.3. In a similar fashion to the call-in process at a meeting the Committee are expected to reach a decision on whether to:

5.3.1. take no action; or

5.3.2. refer the matter to the Executive/Council/Partner Organisations with recommendations; and/or

5.3.3. carry out a full overview and scrutiny investigation.

5.4. Any report and recommendations arising from the Select Committee meeting will be made available and sent to all agencies involved with the CCfA within 5 working days of the meeting. In the case of a crime and disorder matter, reports and recommendations are to be sent to the responsible authorities as listed in the Police and Justice Act 2006.