

Public Document Pack

COUNCIL

Due to the COVID-19 outbreak and the restrictions by the Government on gatherings of people a meeting of Council will be held via ZOOM Video Conferencing System on WEDNESDAY, 17 JUNE 2020 at 4.00 PM and I request you to attend accordingly for transaction of the business below:

For members of the press and public, there will be no access to this meeting at the Council offices but you can view the meeting on YouTube.

The You Tube link is: URL: <https://youtu.be/KeY0VZ5jxF8>

- 1 To receive apologies for absence.
- 2 To elect a Chairman for the period to the next Annual Meeting and to resolve that an allowance of £4,116 plus travelling expenses be paid to the person elected.
- 3 To elect a Vice-Chairman for the period to the next Annual Meeting and to resolve that an allowance of £1000 plus travelling expenses be paid to the person elected.
- 4 Previous Minutes (Pages 5 - 14)

To confirm and sign the minutes of 20 February 2020.

- 5 To receive any announcements from the Chairman of the Council and/or the Head of Paid Service.
- 6 Meetings of the Council 2020/21

To determine that:

1. The Annual Meeting of the Council in 2021 be held on Tuesday 18 May 2021
2. The ordinary meetings of the Council in 2020/21 to be held as follows:

Thursday 6 August 2020

Tuesday 8 September 2020

Monday 14 December 2020

Tuesday 23 February 2021.

- 7 To receive members' declaration of any interests under the Local Code of Conduct or any interest under the Code of Conduct on Planning Matters in respect of any item to be discussed at the meeting.
- 8 Committee Structure. Political Balance and Allocation of Seats (Pages 15 - 34)

The purpose of this Report is to agree the committee structure and terms of reference for the forthcoming municipal year as well as confirming the allocation of seats to those committees and also to outside bodies in accordance with political proportionality rules and to receive notification of the appointments to them (where known).

9 Cambridgeshire & Peterborough Combined Authority Appointments
(Pages 35 - 40)

To request the Council to make appointments to the Cambridgeshire and Peterborough Combined Authority for the municipal year 2020/2021.

10 Items Taken Under Special Urgency in the Last Three Months -
Freedom Leisure and Constitutional Amendments Report (Pages 41 -
246)

This report updates Members on two decisions taken since the last Council meeting which are required to be notified to Members in relation to constitutional changes to give rise to virtual meetings and an urgent executive decision in relation to financial support to Freedom Leisure, both due to COVID-19.

Fenland Hall
March



Chief Executive

Tuesday, 9 June 2020

NOTE The Council may, by resolution, as exemplified below, exclude the public from a meeting during the consideration of any item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that, if members of the public were present, there would be disclosure to them of exempt information as defined in Section 100 I of the Local Government Act, 1972

"Resolved that under Section 100(A)(4) of the Local Government Act, 1972 the public be excluded from the meeting for Item No./Minute No. on the grounds that the item involves the disclosure of exempt information as defined in Paragraph of Part I of Schedule 12A of the Act"

COUNCIL



THURSDAY, 20 FEBRUARY 2020 - 4.00 PM

PRESENT: Councillor Mrs K Mayor (Chairman), Councillor A Miscandlon (Vice-Chairman), Councillor I Benney, Councillor Mrs S Bligh, Councillor C Boden, Councillor G Booth, Councillor D Connor, Councillor M Cornwell, Councillor S Count, Councillor Mrs M Davis, Councillor D Divine, Councillor Mrs J French, Councillor K French, Councillor A Hay, Councillor Miss S Hoy, Councillor M Humphrey, Councillor Mrs D Laws, Councillor A Lynn, Councillor D Mason, Councillor C Marks, Councillor A Maul, Councillor N Meekins, Councillor P Murphy, Councillor D Patrick, Councillor M Purser, Councillor W Rackley, Councillor C Seaton, Councillor W Sutton, Councillor S Tierney, Councillor S Wallwork, Councillor Wicks and Councillor F Yeulett

APOLOGIES: Councillor A Bristow, Councillor J Clark, Councillor S Clark, Councillor R Skoulding, Councillor M Tanfield, Councillor D Topgood and Councillor Wilkes

C61/19 PREVIOUS MINUTES

The minutes of the meeting of 9 January 20 were confirmed and signed, subject to the following amendments.

- Councillor Booth highlighted that C55/19 (point 4), should read, that there was a motion which was considered by 'Council' in May 2019.
- Councillor Booth stated that C58/19 (point 6), should read 'democratic'.

C62/19 CIVIC ENGAGEMENTS UPDATE.

Councillor Mrs Mayor drew member's attention to the civic activities undertaken by herself and the Vice-Chairman in the weeks preceding Full Council.

C63/19 TO RECEIVE ANY ANNOUNCEMENTS FROM THE CHAIRMAN OF THE COUNCIL AND/OR THE HEAD OF PAID SERVICE.

The Chairman thanked those members that attended the Twinning Association Annual General Meeting and Tea Party, which took place on 22 January. The event was well received, with several new members joining the association. The Chairman added that the Tea Party is vital to securing sponsors to host visitors from Stadt Nettetal in 2021 when they next visit Fenland.

C64/19 TO RECEIVE QUESTIONS FROM, AND PROVIDE ANSWERS TO, COUNCILLORS IN RELATION TO MATTERS WHICH, IN THE OPINION OF THE CHAIRMAN, ACCORD WITH THE PROVISIONS OF PROCEDURE RULES 8.4 AND 8.6.

This item was withdrawn from the agenda, due to the absence of the Leader of the Opposition, Councillor Michelle Tanfield.

C65/19 TO RECEIVE REPORTS FROM AND ASK QUESTIONS OF CABINET MEMBERS WITH PORTFOLIO HOLDER RESPONSIBILITIES, IN ACCORDANCE WITH PROCEDURE RULES 8.1 AND 8.2.

Members asked questions of Portfolio Holders in accordance with Procedure Rules 8.1 and 8.2 as follows:

- Councillor Booth addressed Councillor Boden, for an update with regard to parish street lighting which was discussed earlier at Cabinet. Councillor Boden stated that he had contacted the Parish Clerks over the last few months to obtain feedback which has concluded that the Parishes would prefer if the Council took control of their street lighting and also assume responsibility for all future expenditure and for the council to reimburse them for the expenditure they have already incurred. Councillor Boden added that he has received some detailed and helpful information from members of the Council, including information from Councillor Humphrey who had provided an additional proposal for Cabinet to consider. As a result of this information, an amendment to the motion on the subject at today's Cabinet meeting, in order to ensure that those parishes which have the worst proportion of number of street lights to concurrent grant receive additional monies. This amendment to the motion was passed at Cabinet today.
- Councillor Patrick addressed Councillor Tierney with regard to the Wisbech Customer Services Centre and asked whether he could be provided with some information concerning the reduction in footfall, since the centre moved to the Boathouse. Councillor Tierney stated that he is aware that there has been a significant reduction, however this reduction in customers is due to the fact that many customers now carry out their enquiries on line as opposed to face to face. Councillor Tierney agreed to obtain statistics for Councillor Patrick as requested.
- Councillor Bligh asked Councillor Boden if he could provide an update with regard to the review on the bus service and in particular the number 46 route. Councillor Boden stated that whilst he is not able to answer the question directly, the Mayor of the Combined Authority is keen to ensure that the more rural areas of Cambridgeshire and Peterborough are better served by public transport alternatives than they are currently.
- Councillor Wicks addressed Councillor Murphy and congratulated the 'Get it Sorted' team on the amount of information being passed to members and residents concerning recycling. Councillor Wicks stated that the bin collection day calendar, along with other items of literature which are distributed to all residents in Fenland cannot be recycled. He added that it would be beneficial to have the diary of collection dates placed on the district council website. Councillor Murphy stated that the collection dates are already on the council's website.
- Councillor Yeulett highlighted that he had seen an article on the Cambs Times newspaper concerning the initiative of the £100,000 houses and he asked Councillor Mrs Laws whether she can confirm whether the council supports the proposal. Councillor Mrs Laws confirmed that the council is very much in favour of the initiative. She added that she has attended meetings along with Councillor Hoy and Councillor Benney, as well as a meeting with Charles Roberts from East Cambridgeshire District Council. She stated that the process is moving forward and the Fenland Developer Forum will receive a presentation in April. There is also the all member seminar planned on the subject.
- Councillor Wicks addressed Councillor Tierney with regard to the military covenant and asked whether the covenant could be publicised to the local veterans and military associations. Councillor Tierney agreed with Councillor Wicks and stated that it is very important to make it clear to all the members of the armed services, both serving and veterans, that they are supported along with their families. Councillor Tierney agreed to make contact with all associations.
- Councillor Mrs Bligh addressed Councillor Murphy with regard to the issue of dog fouling stencils and asked for an update concerning the commencement of their use. Councillor Murphy stated that it is still being discussed and approval would need to be sought from County Council, however he agreed to investigate the use of the stencils further.
- Councillor Miss French addressed Councillor Benney and asked for an update with regard to the disposal of the councils surplus assets. Councillor Benney stated that following an auction that had taken place earlier that day all of the assets were sold at auction. He added

that most reached their reserve price and one exceeded its reserve price. Councillor Benney highlighted the unique property in Wisbech, which has no downstairs or access, was auctioned for £1.00.

- Councillor Sutton addressed Councillor Mrs Laws with regard to the housing delivery test which Fenland had failed. Councillor Sutton stated that the information was on the Governments website and shows that we have failed the test by 5%. The percentage last year was 97% and by dropping 5%, currently the figure is 92% and an action statement needs to be provided. Councillor Mrs Laws advised Councillor Sutton that she will need to look into this matter further.
- Councillor Sutton addressed Councillor Benney with regard to the £4000 rental charge for the premises that stores the Vivienne Fire Engine. He added that the charity that looks after the fire engine have no income and he would like this reviewed. Councillor Benney agreed to look into this further.
- Councillor Sutton addressed Councillor Boden in the absence of Councillor Sam Clark, with regard to the recent visit from the professional boxer Jordan Gill, who had recently visited and promoted the leisure centres. Councillor Sutton stated that there has been no press release to reflect those visits. Councillor Boden asked Councillor Tierney to respond to this question. Councillor Tierney stated that he is very keen to promote the news and he will contact the communications team to address this.
- Councillor Miss French addressed Councillor Benney and asked for a progress update with regard to the new staff appointments to the Economic Assets team. Councillor Benney stated that the new Economic Growth Manager commences his employment in April. The Business Account Manager commences their new role on Monday 24 February.
- Councillor Cornwell asked for clarification that he has read recently in the local press that the glass Christmas tree from Peterborough has been donated to Fenland District Council and then allocated to Wisbech Town Council. Councillor Boden responded by saying this matter is not relevant to the Council.
- Councillor Booth addressed Councillor Hoy with regard to an article in the press with regard to concerns around the Military Covenant and the veterans that live in Fenland. Councillor Hoy stated that she has seen the press article and she has asked officers to provide her further information. Councillor Hoy stated that Fenlands housing stock is managed by external providers, who dictate who housing tenancies, are given to. She added this is not just a Fenland issue; it is a nationwide concern, where frustrations have been raised with regard to how registered providers are not housing those that we would consider as a priority. Councillor Hoy agreed to review the situation further and provide feedback.

Councillor Count entered the Council Chamber at 16.10pm

C66/19 MOTION SUBMITTED BY COUNCILLOR TIERNEY REGARDING THE PROPOSAL OF AN INCINERATOR FACILITY IN WISBECH.

Councillor Tierney presented a motion regarding the proposal of an incinerator facility in Wisbech and stated that.

This Council understands that there is a proposal to build an Incinerator Facility in Wisbech.

Incinerators are actually wasteful. They burn much of what it otherwise recyclable and their demand for fuel can sometimes result in a reduction in recycling due to their need to bid for more and more waste. This means that it becomes typical for incineration to lead to a reduction in recycling and discourages efforts to preserve resources and creates incentives to generate more waste.

Waste Incineration is not a renewable source of energy. Incinerator companies are marketing “waste-to-energy” as a source of renewable energy. But unlike other renewables the fuel does not come from infinite natural processes. On the contrary, it is source from finite resources.

Burning waste produces toxic emissions. Burning waste is hazardous for citizens’ health and the

environment. Even the most advanced technologies cannot avoid the release of vast amounts of pollutants that contaminate air, soil and water, and end up entering the food chain. Incinerators are major emitters of carcinogenic pollutants as well tiny particles of dust that can lead to decreased lung function, irregular heartbeat, heart attacks, and premature death.

Burning waste creates less employment opportunities than recycling. Incinerators offer relatively few jobs when compared to recycling. The large footprint of a huge Incinerator could clearly produce more jobs as regular manufacturing space. The idea that the Incinerator is a valuable job creator for local people is bluster.

The World is embracing Zero Waste, and Incineration is a backwards step. "Waste-to-energy" is often described as a good way to extract energy from resources, but in fact it works against the circular economy, producing toxic waste, air pollution and for those that are concerned about Climate Change - contributing to it.

Wisbech Roads will be heavily affected. An Incinerator of the size proposed would create hundreds of additional large lorry journeys daily creating significant additional congestion and wear and tear on already busy roads.

Wisbech Rail is under threat. Wisbech' long held hope to re-open its rail line has been champions by the Mayor of Cambridgeshire and Peterborough, the local MP and all local Councils. Millions of pounds have been invested to get to the current point. The proposed location of the Incinerator limits the potential options for a new rail station and cuts off part of the potential route it could take.

In 2019, Wisbech Town Council's motion to oppose the Incinerator project met with nearly unanimous support. An original local campaign opposing the Incinerator has since been joined by a second Campaign doing the same thing. Rallies, public meetings and large campaigns are in place.

Many Environmental Groups are opposed to Incineration due to the issues already discussed. The public are overwhelmingly opposed to the building of an Incinerator in Wisbech.

The Incinerator proposal is of such a large size that it bypasses the usual Planning route through local Councils and instead will be decided directly at Government level. This means local people and local Councils have very limited opportunities to make their views known.

It is important that local people see that Fenland District Council as an organisation understands the strength of public opinion against the Incinerator and that it is willing to stand up and be counted in the campaign to try and prevent it ever happening.

THIS COUNCIL STATES THAT:

- 1/ We do not support the construction of an incinerator in Wisbech.
- 2/ We will write to the Secretary of State to make clear our opposition to these plans.
- 3/ We will take any and all legal avenues and processes available to us to continue to fight on behalf of the residents of Wisbech, the surrounding villages, and Fenland as a whole and to challenge this unwelcome scheme every step of the way.

Councillor Patrick seconded the motion and Councillor Mrs Mayor opened the motion up for debate.

- Councillor Boden stated that he hoped that the motion would be passed unanimously. He added that the proposal of the incinerator is deemed as a national infrastructure project, and therefore will be dealt with at a national level, rather than at County Council. Councillor Boden outlined the first stage of the process which commenced in late December 2019, with a deadline of providing feedback to the planning inspectorate of early January. Councillor Boden thanked Councillor Count for working with officers at County Council and at Fenland, to ensure a robust response was provided to the National Planning Inspectorate.
- Councillor Meekins stated that Wisbech Town Council discussed the incinerator in 2019 and at that time he abstained from the vote, as in his opinion he felt he did not have sufficient information to make a decision; however, as more information is now in the public domain, he will support the campaign to oppose the incinerator.
- Councillor Sutton stated that he will not be supporting the motion, as he feels he does not

have enough information on the proposal.

- Councillor Booth stated that members need to be kept informed on a stage by stage basis. He added that he is particularly concerned about the dioxins that will be produced.
- Councillor Lynn stated that any member that does support this motion should be apologising to their parishes.
- Councillor Mrs Bligh stated that she would like to thank Councillor Tierney for including the villages within the motion, as it will also have an impact on the surrounding villages. She added it is not just the toxic omissions she has concerns over, but also the impact on the traffic in particular the A47.
- Councillor Hoy stated that the reason people are lacking information concerning the proposal, is because there has been insufficient information provided.
- Councillor Cornwell stated that he would like to have seen more information concerning the proposal. He added that the motion is good, but due to the lack of information, he is unsure as to which way to vote.
- Councillor Yeulett stated he cannot support the motion, due to the lack of information.
- Councillor Count stated that Peterborough Incinerator is primarily to deal with the waste generated from that area. The Wisbech incinerator proposal is to be built to deal with Norfolk's waste. He added that this will mean that the waste collection vehicles will be driving across the whole of Norfolk to drive into Cambridgeshire with their waste which is not a very ecological proposal. He stated that in his opinion it is an easy decision to support the motion, as he feels there is sufficient information available. To have an incinerator in Fenland when it is another county's waste is not a sound prospect. Councillor Count asked for a recorded vote to take place on this item.
- Councillor Mrs Davis stated that she fully supports the motion and added that having an incinerator in Wisbech, is not going to reduce the volume of traffic, it is not going to make the people of Fenland healthier, and will be detrimental and therefore the motion should be supported.
- Councillor Wicks thanked Councillor Count for clarifying some of the missing points and added as it is Norfolk's waste it should not become a problem for Cambridgeshire.
- Councillor Patrick stated that there had been a rally held in Wisbech and it had been well attended. One of the speakers who attended had stated that the number of incinerators is increasing and councils will be tied into having to buy rubbish to burn. Councillor Patrick concluded by stating that the proposed location is not suitable, there are residential houses and schools in the vicinity and the future generations must not have to be impacted by the proposal.
- Councillor Tierney thanked Councillor Patrick for his comments which he agrees with. Councillor Tierney addressed Councillor Sutton and asked him to reconsider his decision not to support the motion.

A Recorded vote was taken on the Motion.

In Favour: Councillor Benney, Councillor Mrs Bligh, Councillor Boden, Councillor Booth, Councillor Connor, Councillor Cornwell, Councillor Count, Councillor Mrs Davis, Councillor Divine, Councillor Mrs French, Councillor Miss French, Councillor Hay, Councillor Hoy, Councillor Humphrey, Councillor Mrs Laws, Councillor Lynn, Councillor Marks, Councillor Mason, Councillor Maul, Councillor Meekins, Councillor Murphy, Councillor Patrick, Councillor Purser, Councillor Rackley, Councillor Seaton, Councillor Tierney, Councillor Wallwork and Councillor Wicks.

Against: None

Abstentions: Councillor Sutton and Councillor Yeulett.

The motion was adopted.

C67/19 FINAL BUSINESS PLAN 2020-21.

Members considered the Final Business Plan 2020-21 Report presented by Councillor Boden.

Councillor Boden stated that the report has been widely distributed and the main purpose of the document is to set out the key challenges and opportunities that the council has over the next 12 months. He added that the report was discussed at a recent Overview and Scrutiny meeting and as a result, a few changes were made to the document, in particular with regard to the indicator for recycling performance and also the statement for grade 1 agricultural land has been amended.

Councillor Boden stated that the plan presents some interesting and challenging opportunities for the council over the next 12 months.

Proposed by Councillor Boden, seconded by Councillor Mrs French and AGREED to approve the Final Business Plan 2021-2021.

C68/19 GENERAL FUND BUDGET ESTIMATES 2020/21 AND MEDIUM TERM FINANCIAL STRATEGY (MTFS) 2020/21 TO 2024/25; CAPITAL PROGRAMME 2020 - 2023.

Members considered the General Fund Budget Estimates 2020/21 and Medium Term Financial Strategy (MTFS) report 2020/2021 to 2024/25 presented by Councillor Boden.

Councillor Mrs Mayor reminded members that this item would be subject to a recorded vote as set out in the Constitution.

Members asked questions and made comments as follows:

- Councillor Yeulett thanked Councillor Boden for the summary and made reference to the comment that had been made with regard to challenges that are to come in the future, including a further funding review in areas that affect the council. Councillor Yeulett also added that there are also challenges with regard to business rates moving forward. He stated that he has highlighted previously the issues surrounding councils investing in property companies and the difficulties in accessing their funds when they wish to do so.
- Councillor Booth stated that he will be supporting the budget but made reference to page 76 of the council agenda pack, item 8.2, where the council net services expenditure is shown to rise on a year on year basis. He stated that if the council were business like in their approach as had the figure as a 0% rise, then savings would not need to be sought.
- Councillor Boden stated that we do not know any further details of other financial aspects which may change in the next twelve months
- Councillor Boden stated that with regard to property investment, the council is not going to invest in property companies; it is going to invest in property funds which are carefully regulated and only those that have sufficient liquidity and are approved from the Section 151 Officer.
- Councillor Boden referred to the point that Councillor Booth had highlighted with regard to net services expenditure and the medium term financial strategy, is to make an estimate based on the council's current financial position and to look at what the likely expenditure will be over the next few financial years.
- Councillor Booth stated that he was expressing the view that the council does not have a policy in place which asks officers not to increase the budgets over the medium term financial period. Councillor Boden added that there is a policy in place which is enforced by officers and ensures that every service department reviews at its expenditure on a regular

basis to ensure expenditure costs are kept to a certain level. The medium term financial strategy should be reflection of the policies that are in place.

A Recorded vote was taken on the recommendation which was unanimous and adopted.

In Favour: Councillor Benney, Councillor Mrs Bligh, Councillor Boden, Councillor Booth, Councillor Connor, Councillor Cornwell, Councillor Count, Councillor Mrs Davis, Councillor Divine, Councillor Mrs French, Councillor Miss French, Councillor Hay, Councillor Hoy, Councillor Humphrey, Councillor Mrs Laws, Councillor Lynn, Councillor Marks, Councillor Mason, Councillor Maul, Councillor Meekins, Councillor Murphy, Councillor Patrick, Councillor Purser, Councillor Rackley, Councillor Seaton, Councillor Sutton, Councillor Tierney, Councillor Wallwork and Councillor Wicks and Councillor Yeulett.

Against: None

Abstentions: None

C69/19 COUNCIL TAX RESOLUTION.

Members considered the Council Tax Resolution proposal presented by Councillor Boden.

Councillor Mrs Mayor reminded members that this item would be subject to a recorded vote as set out in the Constitution.

Proposed by Councillor Boden, seconded by Councillor Lynn and AGREED to pass the resolution set out in the report as follows:

- **To approve the Council Tax Resolution to reflect a 0% Council Tax increase for Fenland District Council for 2020/21.**

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 impose an obligation on Local Authorities (after 25 February 2014) to record all votes on decisions on budget and council tax, with this in mind Members voted on this item as follows:

In favour of the proposal - Councillor Benney, Councillor Mrs Bligh, Councillor Boden, Councillor Booth, Councillor Connor, Councillor Cornwell, Councillor Count, Councillor Mrs Davis, Councillor Divine, Councillor Mrs French, Councillor Miss French, Councillor Hay, Councillor Hoy, Councillor Humphrey, Councillor Mrs Laws, Councillor Lynn, Councillor Marks, Councillor Mason, Councillor Maul, Councillor Meekins, Councillor Murphy, Councillor Patrick, Councillor Purser, Councillor Rackley, Councillor Seaton, Councillor Sutton, Councillor Tierney, Councillor Wallwork and Councillor Wicks and Councillor Yeulett.

Against: None

Abstentions: None

C70/19 PROPOSED REMOVAL OF THE CUMULATIVE IMPACT ASSESSMENT POLICY (CIA).

Members considered the proposed removal of the Cumulative Impact Assessment Policy (CIA) report to members presented by Councillor Humphrey

Members asked questions and made comments as follows:

- Councillor Tierney stated that when the CIA was first proposed a number of years ago, he opposed the policy, as he did believe it would resolve the issues. He added that the community of Wisbech have requested that the issue of anti-social behaviour caused by street drinking needs to be addressed. He added that whilst he appreciates that the CIA policy was not introduced for that reason specifically; many people hoped it would address the issue, but it has not.
- Councillor Tierney added that the policy protects businesses that are not operating correctly and prevents new businesses from opening. He added that it also distracts the council from addressing the problems it needs to deal with.
- Councillor Tierney expressed the view that there needs to be policies in place that challenge the problems that Wisbech has. He added that Wisbech Town Council did not support the policy because in their opinion, the policy does not work and he will support the proposal of the removal of the Cumulative Impact Assessment Policy, so real measures can be taken to solve the problem.
- Councillor Sutton stated that in his opinion, he does not agree with the comments made by Councillor Tierney. Councillor Sutton stated that the policy was never intended to stop street drinking. He added that the policy was introduced for licensing applications to prove that the three licensing objectives would not be affected and he added that he will not be supporting the proposal to remove the policy.
- Councillor Hoy expressed the opinion that all premises in Wisbech that apply to sell alcohol are faced with objections from Public Health who have shown concerns over additional premises selling alcohol in Wisbech which will add to the cumulative effect. She added that street drinking has reduced slightly due to the work that the council has been undertaking and also a greater police presence. She stated that the homeless hub has also helped by engaging with the street drinkers.
- Councillor Hoy expressed the view that she believes there is a solution to the problem and she will be working with the Cabinet members to find a satisfactory resolution.
- Councillor Booth stated that in his opinion, the policy should not be removed. He added that the consultation responses that were received were in favour of keeping the policy, including Public Health. He added that he is pleased to hear that further work is being undertaken to try and find a solution. He stated that the policy is in place to be used in conjunction with other legislation, which in his opinion is not being utilised fully.
- Councillor Benney stated that the purpose of the 2003 licensing act was to open up the sale of alcohol to the general public, to enable the public to choose when they drink. He expressed the opinion that the policy goes against that.
- Councillor Humphrey stated that a Cumulative Impact Policy cannot be put in place unless there is evidence of issues and problems in a specific location. He added that in his opinion, the policy has helped whilst it has been in place and he added that there is a misconception with regard to street drinking. He stated that he respects the views of Wisbech Town Council and the conclusion that the licensing committee came to. He expressed the view that he is grateful for the action that Wisbech Town Council are taking with regard to enforcement and compliance. He stated in his personal opinion, he was content with keeping the policy but he is happy to work with the revised policy.

It was proposed by Councillor Humphrey, seconded by Councillor Lynn and decided that that Council APPROVE the removal of the Cumulative Impact Assessment Policy (CIA)

Councillor Patrick left the Council Chamber at 17.39pm

C71/19 CONSTITUTIONAL AMENDMENTS - CABINET MEETINGS.

Members considered the Constitutional Amendment report presented by Councillor Boden.

Members asked questions and made comments as follows:

- Councillor Booth asked for clarification with regard to the review period over the frequency of the cycle of meetings. Councillor Boden clarified that a review will take place after 6 months.
- Councillor Sutton stated that he broadly agrees with the changes. He expressed the view that he does have concerns with regard to the Planning Committee, meeting 5 weekly, as there are going to be extensions of time requests with regard to planning applications and his preference and proposal would be to have monthly meetings rather than 5 weekly.
- Councillor Boden clarified that this item is to note and not to decide.

It was proposed by Councillor Boden, seconded by Councillor Connor and decided that that Council APPROVE the Constitutional Amendments.

Amy Brown, Deputy Monitoring Officer, left the Council Chamber at 17.45pm

C72/19 NOTIFICATION OF APPOINTMENT OF DEPUTY MONITORING OFFICER.

Members considered the Notification of the Appointment of the Deputy Monitoring Officer report presented by Councillor Boden.

It was proposed by Councillor Boden, seconded by Councillor Miscandlon and decided that that Council APPROVE the recommendation.

Amy Brown, Deputy Monitoring Officer, entered the Council Chamber 17.46pm.

Members congratulated Amy Brown on her appointment.

Councillor Tierney was not present when members agreed to note this item.

C73/19 SENIOR MANAGER PAY POLICY STATEMENT.

Members considered the Senior Manager Pay Policy Statement Report presented by Councillor Boden.


Members asked questions and made comments as follows:

- Councillor Booth expressed the view that this is a policy and if members are minded then they can vote against the policy.

Proposed by Councillor Boden, seconded by Councillor Mrs French and AGREED to adopt the Senior Manager Pay Policy Statement for 2020/21 as required by the Localism Act 2011.

5.48 pm

Chairman

	Agenda Item 8	
Committee:	Council	
Date:	17 June 2020	
Report Title:	Committee Structure, Political Balance and Allocation of Seats	

1. PURPOSE/SUMMARY

- 1.1. The purpose of this Report is to agree the committee structure and terms of reference for the forthcoming municipal year as well as confirming the allocation of seats to those committees and also to outside bodies in accordance with political proportionality rules and to receive notification of the appointments to them (where known).

2. KEY ISSUES

- 2.1. The Constitution provides under Rule 1, paragraph 1.2 that at the Annual Meeting, Council will:
- (a) determine which committees and panels should be established for the ensuing municipal year;
 - (b) agree the terms of reference for those committees/panels as outlined in the [constitution](#)
 - (c) allocate the seats and position of the Chairman and Vice Chairman to Political Groups in accordance with political proportionality rules where appropriate in respect of committees, panels and outside bodies;
 - (d) receive notification and to appoint Councillors to the allocated seats on each committee and panel and to serve as Chairman and Vice-Chairman.
- 2.2. Political Groups are allocated seats proportionate to their size.
- 2.3. The Council ordinarily has 39 elected members however a vacancy currently exists, which cannot currently be filled until May 2021 in accordance with current regulations. Legislation requires a political proportionality review to be conducted following an election rather than as a result of a vacancy. However, given there will be a significant delay before there is a legal requirement for a review, Group Leaders have indicated that they agree to act in accordance with the spirit of the legislation. The review would then have to be based on the number of 'actual' members (discounting the vacancy), namely 38.

3. RECOMMENDATIONS

It is recommended that Council:

- 3.1. Maintains the Committees and Panels set out at Appendix A for the 2020/2021 municipal year;
- 3.2. Agrees that the terms of reference set out at Part 3 of the Council's [constitution](#) in relation to the committees and panels referred to at paragraph 3.1 above should continue as currently drafted;
- 3.3. Agrees the allocation of seats and position of Chairman and Vice Chairman on those committees subject to political balance arrangements (Appendix A);
- 3.4. Agrees the appointments to seats allocated in accordance with paragraphs 3.3 above (Appendix B) to include co-opted or non-members.
- 3.5. Agrees the list of Outside Bodies and allocation of seats in accordance with political

balance arrangements as set out at Appendix C for 2020/21. Appointments will be made at Cabinet in July.

Wards Affected	All
Portfolio Holder(s)	N/A
Report Originator(s)	Carol Pilson - Corporate Director and Monitoring Officer cpilson@fenland.gov.uk 01354 622360 Peter Catchpole – Corporate Director and Section 151 Officer petercatchpole@fenland.gov.uk 01354 622201 Anna Goodall - Head of Governance and Legal Services agoodall@fenland.gov.uk 01354 622357
Contact Officer(s)	Paul Medd- Chief Executive Carol Pilson - Corporate Director and Monitoring Officer Peter Catchpole – Corporate Director and Section 151 Officer Anna Goodall - Head of Governance and Legal Services
Background papers	Constitution

4. BACKGROUND/INTRODUCTION

4.1. For each municipal year, Council has to set out the Committees and Panels which are to be established. On establishing the Committees and Panels, in accordance with the rules relating to Political Proportionality the seats on each committee and panel together with the position of Chairman and Vice Chairman are then allocated to Political Parties. Council also receives notification of the appointments to these Committees. Council is also required to confirm allocations to Outside Bodies based again on political proportionality.

5. COMMITTEE STRUCTURE

5.1. As per paragraph 2.1, the Constitution provides that the Council considers the establishment and terms of reference of committees at its Annual Meeting. This must be determined before seats can be allocated to committees in accordance with the political proportionality rules.

5.2. The Committees and Panels of Fenland District Council are as identified in Appendix A and their terms or reference are as set out at Part 3 of the Constitution. No changes have been proposed to either for the forthcoming municipal year.

6. ALLOCATION OF SEATS

6.1. Political Proportionality

6.1.1. As per paragraph 2.1 the Constitution provides that the Council allocation of

seats and position of Chairman and Vice Chairman on those committees subject to political balance arrangements.

- 6.1.2. The rules relating to political proportionality in relation to membership of committees are set out in the Local Government and Housing Act 1989 and the supporting regulations.
- 6.1.3. For the purposes of the regulations a political group must consist of two or more members who have signed a declaration to that effect.
- 6.1.4. Where one or more groups exists the relative proportions of the groups should be used in allocating seats on committees/outside bodies. Therefore any elected members who are not part of a group are not automatically allocated seats on committees. If however there are any seats which remain unallocated after political groups have been given their proportionate allocation, those unallocated seats will be given to ungrouped members.
- 6.1.5. The Council ordinarily has 39 elected members however a vacancy currently exists, which in accordance with the provision set out in the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 an election to fill the vacancy cannot take place until May 2021. There is no requirement to change the political proportionality purely as a result of the vacancy arising as legally the review would follow the subsequent by-election. However, given that there will be a significant delay before there is a legal requirement for a review due to the protracted timescales for an election, Group Leaders have indicated that they agree to act in accordance with the spirit of the legislation. The review would then have to be based on the number of 'actual' members (discounting the vacancy), namely 38. The distribution of the 38 current members of the Council within the group structures is as follows. It is :

Group	Number	Percentage
Conservatives	25	66%
Fenland Independents Alliance (Including 2 Liberal Democrats)	13	34%

- 6.1.6. The proposed allocation of seats and position of Chairman and Vice Chairman on the committees referred to at paragraph 5 and subject to political balance arrangements are as set out at Appendix A.

6.2. Outside Bodies

- 6.2.1. Also in accordance with political proportionality requirements Fenland District Council allocates seats on outside bodies where there are 2 or more appointments to be made. The list of Outside Bodies and the allocation of seats is as set out at Appendix C.
- 6.2.2. Confirmation of membership to the Outside Bodies will be undertaken by Cabinet in July, which will allow sufficient time for Group Leaders to appoint to their allocation of seats.

7. COMMITTEE APPOINTMENTS

-
- 7.1. As per paragraph 2.1, the Constitution provides that Council agrees the appointments to the seats allocated at paragraph 6 above.
 - 7.2. The terms of reference of the Conduct Committee also provide for the appointment of up to 2 co-opted members and Independent Persons.
 - 7.3. The proposed allocations for the forthcoming municipal year are as set out at Appendix B.
-

Appendix A - Allocation of Seats on Committees & Panels

Committee	Membership	Political Apportionment
<p>Overview and Scrutiny</p>	<p>Up to 12 members of the Council (none of which may be part of the Cabinet)</p> <p>6 substitute members</p> <p>Appointment: Chairman Vice Chairman</p>	<p>8 to Conservative Group 4 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>Substitute members 4 to Conservative Group 2 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>To the Conservative Group To the Conservative Group</p>
<p>Planning Committee</p>	<p>Up to 12 members of the Council. No more than three of which can be members of the Cabinet.</p> <p>Each political group can appoint up to 4 substitute members (8 substitute members)</p> <p>Appointment: Chairman Vice Chairman</p>	<p>8 to Conservative Group 4 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>4 substitute members from each political group</p> <p>To the Conservative Group To the Conservative Group</p>
<p>Licensing Committee (Licensing Act 2003)</p>	<p>Up to 12 members of the Council.</p> <p>The same Members are to be appointed for the Licensing Act 2003 Committee and the Non Licensing Act 2003 Committee.</p> <p>6 substitute members</p>	<p>8 to the Conservative Group 4 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>Substitute members 4 to Conservative Group 2 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The</p>

	<p>Appointment: Chairman Vice Chairman</p>	<p>Green Party)</p> <p>To the Conservative Group To the Conservative Group</p>
<p>Staff Committee</p>	<p>8 members of the Council to be formed from: 3 members of Cabinet, one of which is to be the portfolio holder with responsibility for Finance. 3 members of any Overview and Scrutiny panel 2 Backbench members</p> <p>4 substitute members</p> <p>Appointment: Chairman Vice Chairman</p> <p>The Chairman may be a member of Cabinet</p>	<p>5 to the Conservative Group 3 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>Substitute members 3 to Conservative Group 1 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>To the Conservative Group To the Conservative Group</p>
<p>Corporate Governance Committee</p>	<p>Up to 11 members of the Council to be formed from: Up to 3 members of Cabinet not including the portfolio holder responsible for finance Up to 3 members drawn from the Overview and Scrutiny panel 5 Backbench members</p> <p>5 substitute members</p>	<p>7 to Conservative Group 4 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>Substitute members 3 to Conservative Group 2 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p>

	<p>Appointment: Chairman Vice Chairman</p> <p>The Chairman may be a Member of Cabinet or Overview and Scrutiny</p>	<p>To the Conservative Group To the Conservative Group</p>
<p>Conduct Committee</p>	<p>Up to 5 Members of the Council</p> <p>3 substitute members</p> <p>Appointment: Chairman Vice Chairman</p> <p>The Committee may also appoint itself up to two members of Town or Parish Councils to assist its work.</p> <p>Independent Person: Deputy Independent Person:</p>	<p>3 to Conservative Group 2 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>Substitute members 2 to Conservative Group 1 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>To the Conservative Group To the Conservative Group</p> <p>Currently: Councillor Andrew Donnelly Councillor John Maxwell</p> <p>Stuart Webster Claire Hawden-Beal</p>
<p>Appointments Panel</p>	<p>Up to 7 members and not less than 3 nominated by the Leader to reflect political proportionality</p> <p>3 substitute members</p> <p>Appointment: Chairman Vice Chairman</p>	<p>5 to the Conservative Group 2 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>Substitute members 2 to Conservative Group 1 to The Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)</p> <p>To the Conservative Group To the Conservative Group</p>

Appendix B- Appointments to Committees and Panels

Cabinet (9)	
Cllr Ian Benney	Cllr Mrs Dee Laws
Cllr Chris Boden (Chairman)	Cllr Peter Murphy
Cllr Sam Clark	Cllr Chris Seaton
Cllr Mrs Jan French (Vice Chairman)	Cllr Steve Tierney
Cllr Miss Sam Hoy	Cllr Susan Wallwork
Overview and Scrutiny Panel (12)	
Cllr Gavin Booth	Cllr Alex Miscandlon (Vice Chairman)
Cllr Mike Cornwell	Cllr Mark Purser
Cllr Anne Hay	Cllr Robert Skoulding
Cllr Michael Humphrey	Cllr David Topgood
Cllr David Mason (Chairman)	Cllr Bob Wicks
Cllr Mrs Kay Mayor	Cllr Fred Yeulett
Substitutes:	
Cllr Sarah Bligh	
Cllr David Connor	
Cllr Andy Maul	
Planning Committee (12)	
Cllr Ian Benney	Cllr Charlie Marks
Cllr Sam Clark	Cllr Mrs Kay Mayor
Cllr David Connor (Chairman)	Cllr Nick Meekins
Cllr Mike Cornwell	Cllr Peter Murphy
Cllr Mrs Anne Hay (Vice Chairman)	Cllr Will Sutton
Cllr Andrew Lynn	
Substitutes:	
Cllr Sarah Bligh, Cllr Gavin Booth, Cllr David Patrick, Cllr Michelle Tanfield	
Cllr Mrs Jan French, Cllr Billy Rackley, Cllr Robert Skoulding	
Licensing Committee (12) - same Members for Licensing Act 2003 Committee and Non - Licensing Act 2003 Committee	
Cllr David Connor	Cllr Nick Meekins
Cllr Miss Sam Hoy	Cllr Billy Rackley
Cllr Michael Humphrey (Chairman)	Cllr Robert Skoulding (Vice Chairman)
Cllr Andrew Lynn	Cllr David Topgood
Cllr Andy Maul	Cllr Michelle Tanfield
Cllr Mrs Kay Mayor	Cllr Simon Wilkes

Substitutes	Cllr Peter Murphy
Cllr Ian Benney	Cllr David Patrick
Cllr Alex Charlie Marks	
Cllr Alex Miscandlon	

Corporate Governance Committee (11)	
Cllr Ian Benney	Cllr Kim French (Vice Chairman)
Cllr Gavin Booth	Cllr Nick Meekins
Cllr John Clark (Chairman)	Cllr Mark Purser
Cllr Sam Clark	Cllr David Topgood
Cllr Daniel Divine	Cllr Bob Wicks
Cllr Mrs Jan French	
Substitutes	
Cllr Sarah Bligh	Cllr Will Sutton
Cllr Miss Sam Hoy	
Cllr Dee Laws	
Staff Committee (8)	
Cllr Chris Boden	Cllr Kim French (Chairman)
Cllr Mike Cornwell	Cllr Steve Tierney
Cllr Maureen Davis (Vice Chairman)	Cllr Bob Wicks
Cllr Mrs Jan French	Cllr Fred Yeulett
Substitutes:	
Cllr Andrew Lynn	Cllr Nick Meekins
Cllr Mrs Kay Mayor	
Conduct Committee (5)	
Cllr Mike Cornwell	Cllr David Topgood (Chairman)
Cllr David Patrick	Cllr Susan Wallwork (Vice Chairman)
Cllr Mark Purser	
Substitutes:	
Cllr David Connor	Cllr Andy Maul
Cllr Miss Sam Hoy	
Independent People Independent Person: Stuart Webster	Town/Parish Reps Cllr Andrew Donnelly

Deputy Independent Person: Claire Hawden-Beal	Cllr John Maxwell
Appointments Panel (7)	
Cllr Chris Boden	Cllr Robert Skoulding
Cllr Steve Count	Cllr Will Sutton
Cllr Mrs Jan French	Cllr Steve Tierney
	Cllr Fred Yeulett
Substitutes:	
Cllr Mike Cornwell	Cllr Kim French

Appendix C - Allocation of seats on Outside Bodies

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
1	Anglia Revenue Partnership	1 + 2 substitutes	Cllr Jan French Substitute members Cllr Connor Cllr Kim French		Conservative Party representation
2	Benwick Internal Drainage Board (IDB)	4	Cllr Laws Cllr Miscandlon Cllr Mrs Mayor Cllr Wicks		3 Conservatives 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
3	Cambridgeshire Horizons Board	1	Cllr Boden		Conservative Party representation
4	Cambridgeshire Military Community Covenant Board	1	Cllr Tierney		Conservative Party Representation
5	Cambridgeshire Police and Crime Panel	1 + 1 substitute	Cllr Wallwork Substitute member Cllr Lynn		Conservative Party Representation
6	Cambridgeshire Health and Wellbeing Board + District Lead Members Group	1	Cllr Wallwork		Conservative Party Representation
7	Chatteris Community Centre Association	2	Cllr Murphy Cllr Benney		1 Conservative 1 Fenland Independents Alliance (including 2

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
					Liberal Democrats and 1 Member of The Green Party)
8	College of West Anglia Governing Body	1	Cllr Topgood		Conservative Party Representation
9	Community Learning and Skills Partnership	1	Cllr Benney		Conservative Party Representation
10	Curf and Wimblington Combined IDB	1	Cllr Davis		Conservative Party Representation
11	Feldale IDB	7	Cllr Laws Cllr Boden Cllr Miscandlon Cllr Mrs Mayor		5 Conservatives 2 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
12	Fenland Association of Community Transport	1	Cllr Seaton		Conservative Party Representation
13	Fenland Diverse Communities Forum	1	Cllr Tierney		Conservative Party Representation
14	Fenland Tension Monitoring Group	1	Cllr Hoy		Conservative Party Representation
15	Fenland Transport and Access Partnership	1	Cllr Topgood		Conservative Party Representation

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
16	Fenland Transport Strategy	2	Cllr Seaton Cllr Connor		1 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
17	Fenland Twinning Association	4	Cllr Mrs Hay Cllr Mrs Mayor Cllr Topgood Cllr Meekins		3 Conservatives 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
18	Hanson, Fletton Brickworks Industry	1	Cllr Boden		Conservative Party Representation
19	Health Committee	1 + 1 substitute	Substitute Member Cllr Topgood		Conservative Party Representation
20	Hundred of Wisbech IDB	15	Cllr Topgood Cllr Wallwork Cllr Lynn Cllr Hoy Cllr Rackley Cllr Sutton Cllr Meekins Cllr Booth Cllr Tanfield		10 Conservatives 5 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
21	Kings Lynn IDB	1	Cllr Topgood		Conservative Party Representation
22	LGA/ LGA Rural Commission/ LGA Urban Commission	1 + 1 Substitute	Cllr Boden Substitute member Cllr Tierney		Conservative Party Representation
23	Manea and Welney Drainage Commissioners	3	Cllr Marks Cllr Sutton		2 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
24	March Area Transport Study	2	Cllr Count Cllr Skoulding		1 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
25	March West and White Fen Internal Drainage Board (Previously known as March and Whittlesey IDB)	6	Cllr Cornwell Cllr Wicks		4 Conservatives 2 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
26	March East IDB	11	Cllr Purser Cllr Clark Cllr Topgood Cllr Cornwell Cllr Marks Cllr Yeulett		7 Conservatives 4 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
27	March Education Foundation	1	Cllr Purser		Conservative Party Representation
28	March Fifth District Drainage Commissioners	8	Cllr Cornwell Cllr Jan French		5 Conservatives 3 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
29	March Sixth District Drainage Commissioners	4	Cllr Cornwell Cllr Jan French		3 Conservatives 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
30	March Third IDB	5	Cllr Cornwell Cllr Marks		3 Conservatives 2 Fenland Independents Alliance

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
			Cllr Jan French Cllr Yeulett		(including 2 Liberal Democrats and 1 Member of The Green Party)
31	Middle Level Commissioners	3	Cllr Laws Cllr Miscandlon Cllr Sutton		2 Conservatives 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
32	Needham and Laddus IDB	1	Cllr Sutton		Conservative Party Representation
33	Nightlayer IDB	10	Cllr Benney Cllr Murphy Cllr Divine		7 Conservatives 3 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
34	North Level District IDB	7	Cllr Humphrey Cllr Sam Clark Cllr Laws Cllr Mrs Mayor Cllr Miscandlon Cllr Booth		5 Conservatives 2 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)


Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
			Cllr Meekins		
35	Wisbech Community Development Trust (Oasis Village Centre)	1	Cllr Rackley		Conservative Party Representation
36	Ransonmoor District Drainage Commissioners	2	Cllr Connor Cllr Wicks		1 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
37	RECAP	1	Cllr Murphy		Conservative Party Representation
38	Rural Cambs CAB	3	Cllr Miscandlon Cllr Booth		2 Conservatives 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
39	Safer Fenland Partnership	1	Cllr Wallwork		Conservative Party Representation
40	The Wash and North Norfolk Marine Partnership	1	Cllr Rackley		Conservative Party Representation
41	The Combined Authority	1 + 1 Substitute	Cllr Boden Substitute member		Conservative Party Representation

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
			Cllr Jan French		
42	The Combined Authority Overview and Scrutiny Committee	2 + 2 Substitutes	Cllr Miscandlon Cllr Mrs Hay Substitute member Cllr Tierney		Conservative Party Representation
43	The Combined Authority Audit Committee	1 + 1 Substitute	Cllr Benney Substitute member Cllr Hoy		Conservative Party Representation
44	Upwell IDB	2	Cllr Rackley Cllr Sutton		1 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
45	Waldersley IDB	2	Cllr Rackley Cllr Sutton		1 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
46	Warboys, Somersham and Pidley IDB	1	No nominated representative for 2019/20		Conservative Party Representation
47	Whittlesey & District	5	Cllr Mason		3 Conservatives

Ref No	Outside Body	Number of representatives required 2020/21	Current nominated representatives 2019/20	To Be Nominated Representatives 2020/21*	Proportionality
	IDB		Cllr Laws Cllr Mrs Mayor Cllr Wicks		2 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
48	Wisbech Access Strategy Member Steering Group	2	Cllr Lynn Cllr Rackley		1 Conservative 1 Fenland Independents Alliance (including 2 Liberal Democrats and 1 Member of The Green Party)
49	Young People March	1	Cllr Purser		Conservative Party Representation

*Confirmation of membership to the Outside Bodies will be undertaken by Cabinet in July, which will allow sufficient time for Group Leaders to appoint to their allocation of seats.

Agenda Item 9

	Agenda Item 9	
Committee:	Council	
Date:	17 June 2020	
Report Title:	Combined Authority Membership and Other Appointments	

1. PURPOSE/SUMMARY

- 1.1. To request the Council to make appointments to the Cambridgeshire and Peterborough Combined Authority for the municipal year 2020/2021.

2. KEY ISSUES

- 2.1. In accordance with the Cambridgeshire and Peterborough Combined Authority Order 2017, each Constituent Council must appoint one of its elected members and a substitute member to the Combined Authority Board. This is usually the Leader of the Council.
- 2.2. The Council is also asked to make appointments to the Combined Authority Overview and Scrutiny Committee and Audit and Governance Committee.

3. RECOMMENDATION

- 3.1. To agree the appointments and nominations to the Cambridgeshire and Peterborough Combined Authority for the municipal year 2020/21.
 - 3.1.1. appoint Cllr Chris Boden, Leader of Council to act as the Council's appointee to the Combined Authority and appoint one substitute member, Cllr Mrs Jan French;
 - 3.1.2. nominate two members from the Conservative party to the Overview and Scrutiny Committee - Cllrs Mason and Cllr Mrs Hay, and two substitute members from the same political party as those appointed – Cllrs Tierney and Miscandlon;
 - 3.1.3. nominate one member from the Conservative Party to the Audit and Governance Committee - Cllr Benney and one substitute member from the same political party - Cllr Hoy.
- 3.2. That the Chief Executive be authorised to make any amendments to the appointments to the Combined Authority Board, Overview and Scrutiny Committee and the Audit and Governance Committee in consultation with the relevant Political Group Leaders at any time throughout the municipal year.
- 3.3. To adopt the schedule of appointments and political allocations set out in the appendices.

Wards Affected	All
Forward Pan Reference	N/A

Portfolio Holder(s)	N/A
Report Originator(s)	<p>Carol Pilson - Corporate Director and Monitoring Officer cpilson@fenland.gov.uk 01354 622360</p> <p>Peter Catchpole – Corporate Director and Section 151 Officer petercatchpole@fenland.gov.uk 01354 622201</p> <p>Anna Goodall - Head of Governance and Legal Services agoodall@fenland.gov.uk 01354 622357</p>
Contact Officer(s)	<p>Paul Medd- Chief Executive Carol Pilson - Corporate Director and Monitoring Officer Peter Catchpole – Corporate Director and Section 151 Officer Anna Goodall - Head of Governance and Legal Services</p>
Background papers	Cambridgeshire and Peterborough Combined Authority Order 2017

4. BACKGROUND/INTRODUCTION

- 4.1. In accordance with the Cambridgeshire and Peterborough Combined Authority Order 2017, each Constituent Council must appoint one of its elected members and a substitute member to the Combined Authority. This is normally the Leader. Each Council made these appointments at its respective Council meeting in May 2017 for the 2017/18 municipal year and is requested to do so for each subsequent municipal year. The Council is now asked to appoint members and substitute members for the municipal year 2020/21.

5. NON EXECUTIVE COMMITTEE

- 5.1. The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2016 requires the Combined Authority to establish an Overview and Scrutiny Committee and an Audit and Governance Committee. The Order sets out the rules for membership. The membership of the Overview and Scrutiny and the Audit and Governance Committees as a whole should reflect so far as reasonably practicable the balance of political parties of the constituent councils when taken together. The balance is based on membership of political parties, not political groups, on constituent councils across Cambridgeshire and Peterborough.
- 5.2. The Combined Authority having reviewed the political balance on constituent councils in 2020 requested constituent councils to make the following appointments to these committees.

5.2.1. Overview & Scrutiny Committee

5.2.1.1. The Combined Authority agreed that to ensure an equitable representation across each constituent authority, two members from each council should be appointed to the Overview and Scrutiny Committee representing a total membership of fourteen members.

5.2.1.2. The Council is required to nominate two members from the Conservative Party to the Overview and Scrutiny Committee for the municipal year 2020/21 based on the political balance set out in the appendices.

5.2.2. Audit & Governance Committee

5.2.2.1. The Combined Authority agreed to establish an Audit and Governance Committee consisting of seven constituent members: one member from each constituent council.

5.2.2.2. The Council is required to nominate one member from the Conservative Party to sit on the Audit and Governance Committee for the municipal year 2020/21 based on the political balance set out in the appendices.

5.2.3. Substitutes

5.2.3.1. The Combined Authority has agreed that substitute members should be appointed for each position on the Audit and Governance Committee and the Overview and Scrutiny Committee. Any substitute members should come from the same party as the Member they are substituting for to maintain political balance.

5.2.3.2. For the Overview and Scrutiny Committee, if constituent councils have appointed members from the same political parties, i.e. East Cambs and Fenland, those Councils might only wish to appoint one substitute rather than two. The quorum set down in legislation is two thirds of the total membership. Therefore, it is preferable to appoint two members in case both members are absent from a meeting and need to substitute.

5.3. CONCLUSION

5.3.1. All appointments and nominations made by constituent councils will be reported to the Combined Authority.

5.3.2. The political balance calculations in the Appendices are based on up to date statistics given by constituent councils and take account of the outcome of constituent council elections. However, there may be last minute changes in the lead up to constituent councils' annual meetings and Combined Authority's annual meeting.

5.3.3. The Council ordinarily has 39 elected members however a vacancy currently exists, which cannot be filled as a result of a by election until May 2021, in accordance with the current regulations (the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local

Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020). Legislation requires a political proportionality review to be conducted following an election rather than as a result of a vacancy. However given there will be a significant delay before there is a legal requirement for a review, Group Leaders have indicated that they agree to act in accordance with the spirit of the legislation. The review would then be based on the number of 'actual' members discounting the vacancy, namely 38, which is the figure the Combined Authority have taken when conducting their proportionality calculations.

- 5.3.4. If there are consequential changes to the overall political balance, the Combined Authority may need to review the membership and the allocation of seats to political parties on the above committees. The CPCA Monitoring Officer will advise constituent councils if any subsequent changes have been necessary, and whether any changes need to be made to their nominations.
- 5.3.5. The Council is requested to delegate powers to the Chief Executive to approve any consequential changes to these appointments in consultation with the relevant Party Group leaders.
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**APPENDIX
1**


**Overview and Scrutiny Committee of 14
POLITICAL BALANCE ACROSS THE COUNTY as at 8 May 2020**

	Total	Vacancy	Conservative	Labour	Liberal Democrats	Independent	Green	St. Neots Independent	Liberal Party	Werrington First	HDC Independent	Total	Entitlement
CAMBRIDGESHIRE	2		35	7	16	1		2				61	1 Conservative; 1 Lib Dem
CAMBRIDGE CITY	2			26	15	1						42	1 Labour; 1 Lib Dem
EAST CAMBS.	2		15		11	2						28	1 Conservative; 1 Lib Dem
FENLAND	2		25		2	10	1					38	2 Conservative
HUNTINGDONSHIRE	2		30	4	7	1					10	52	1 Conservative; 1 Lib Dem
PETERBOROUGH	2		27	17	9		2		1	3		59	1 Conservative; 1 Labour
SOUTH CAMBS.	2		11	2	30	2						45	1 Lib Dem; 1 Conservative
TOTAL	14	0	143	56	90	17	3	2	1	3	10	325	
POLITICAL BALANCE %			44.00	17.23	27.69	5.23	0.92	0.62	0.31	0.92	3.08		
Seat allocation			7	3	4	0	0	0	0	0	0	14	
Committee seat allocation	14		6.16	2.41	3.88	0.73	0.13	0.09	0.04	0.13	0.43	14	

APPENDIX 2

**Audit and Governance Committee of 7
POLITICAL BALANCE ACROSS THE COUNTY as at 8 May 2020**

	Total	Vacancy	Conservative	Labour	Liberal Democrats	Independent	Green	St. Neots Independent	Liberal Party	Werrington First	HDC Independent	Total	Entitlement
CAMBRIDGESHIRE	1		35	7	16	1		2				61	1 Conservative
CAMBRIDGE CITY	1			26	15	1						42	1 Labour
EAST CAMBS.	1		15		11	2						28	1 Conservative
FENLAND	1		25		2	10	1					38	1 Conservative
HUNTINGDONSHIRE	1		30	4	7	1					10	52	1 Conservative
PETERBOROUGH	1		27	17	9		2		1	3		59	1 Liberal Democrat
SOUTH CAMBS.	1		11	2	30	2						45	1 Liberal Democrat
TOTAL	7	0	143	56	90	17	3	2	1	3	10	325	
POLITICAL BALANCE %			44.00	17.23	27.69	5.23	0.92	0.62	0.31	0.92	3.08		
Seat allocation			4	1	2	0	0	0	0	0	0	7	
Committee seat allocation	7		3.08	1.2061	1.9383	0.3661	0.0644	0.0434	0.0217	0.0644	0.2156	7	

Agenda Item No:	Agenda Item 10	
Committee:	Council	
Date:	17 JUNE 2020	
Report Title:	Covid 19 Urgent Decision Update	

1 Purpose / Summary

This report updates Members on two decisions taken since the last Council meeting which are required to be notified to Members in relation to constitutional changes to give rise to virtual meetings and an urgent executive decision in relation to financial support to Freedom Leisure, both due to Covid 19.

2 Key issues

- In certain circumstances, the constitution states that when decisions are taken they must be reported to Council.
- In the case of virtual meetings, new legislation was passed due to Covid 19 to enable Councillors to attend Council meetings virtually, rather than in person through The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020.
- In order for the Council to embrace these changes, the constitution required updating prior to the first virtual meeting being held.
- Therefore, in consultation with Group Leaders, the Monitoring Officer utilised the delegation set out in Part 3, Table 4, Functions delegated to officers: Monitoring Officer, Paragraph 47, Page F19 of the Constitution which enables the Monitoring Officer to amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council to bring in to effect.
- The Virtual Meetings Procedure Rules and track changed constitution are attached at Appendix A for ratification. These rules are being kept under review by the Monitoring Officer.
- Decisions taken using special urgency provisions must be reported to Council. The decision taken on 1st May 2020 in relation to Freedom Leisure falls within this category therefore the reasoning for using these powers is set out in section 5 and Appendix B.

3 Recommendations

Members are requested to:

- Note the decision taken under special urgency in relation to financial support to Freedom Leisure due to Covid 19.
- Ratify the Constitutional changes as set out at Appendix A in relation to Virtual Meetings.

Wards Affected	All
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Portfolio Holder(s)	Cllr Chris Boden – Leader of the Council Cllr Sam Clark – Portfolio Holder for Leisure
Report Originator	Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Chief Solicitor and Deputy Monitoring Officer
Contact Officer(s)	Paul Medd – Chief Executive Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Chief Solicitor and Deputy Monitoring Officer Peter Catchpole, Corporate Director and Section 151 Officer Phil Hughes, Head of Leisure and Open Spaces
Background Paper(s)	Urgent Decision Notice and All Member Briefing Note – Freedom Leisure Officer Decision Notice and All Member Briefing Note – Virtual Meetings

4. Constitutional Changes – Virtual Meetings

- 4.1 Under existing Local Government legislation, local authority members are required to attend meetings in person and in ordinary circumstances, failure to attend a meeting in this way over a period of 6 months can result in loss of office.
- 4.2 In addition the press and public have the right to attend meetings and view paper copies of all of the documentation associated with the meeting (such as notices, agendas and minutes) and the items to be discussed (such as reports and background papers) unless they are confidential or exempt.
- 4.3 The Government recognised that these ordinary arrangements could not be achieved amidst the current Covid-19 situation and, in order therefore to enable local authorities to continue the delivery of vital services, The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the ‘Regulations’) came into force on 4th April 2020.
- 4.4 These Regulations make provisions for meetings to take place remotely such that members, the press and public can be ‘present’ at a meeting remotely.
- 4.5 There are equally provisions which enable meetings to be cancelled and postponed, for appointments which are normally made at annual council to carry over and for the Council’s obligations with regard to the publication/production of documents to be met by making them available to view on the website.
- 4.6 Successful implementation of the Regulations required that changes were made to the Constitution, including the Standing Orders to ensure the Council could lawfully and constitutionally undertake virtual meetings in a timely manner.
- 4.7 Virtual Meetings Procedure Rules were drawn up and consulted on with Group Leaders setting out the arrangements and protocol for future Council, Cabinet and Committee meetings making clear the new rules take precedence over existing Standing Orders where there are any interpretative discrepancies.
- 4.8 In order however to avoid the possibility of uncertainty, amendments have also been proposed to the Constitution to reflect/clarify the changes made by the Procedure Rules but leaving the existing provisions in place so that maximum flexibility can be achieved throughout the relevant period.

- 4.9 The Monitoring Officer is responsible for ensuring the overall good governance of the Council. As part of this, the Monitoring Officer has delegated authority to make changes to the Constitution which are necessary to reflect changes in the law or to ensure the convenient and effective discharge of council functions.
- 4.10 It was necessary to bring these constitutional changes in to effect on 30th April 2020 to enable Council business to continue to be transacted, and in particular enable the Council's first virtual meeting, the Planning Committee, to take place on 6th May 2020.
- 4.11 The Virtual Meeting Procedure Rules and associated constitutional amendments are being kept under review by the Monitoring Officer therefore if any Member wishes to feedback on how these rules are operating, please contact Carol Pilson.

5. Urgent Executive Decision – Freedom Leisure

- 5.1 Part 3, Table 5, paragraph 9 of Fenland District Council's Constitution provides all portfolio holders, including the Leader, with delegated authority to take executive decisions on behalf of the Council in circumstances where the matter is urgent and provided that the Chairman of Overview and Scrutiny and a relevant representative of CMT agree.
- 5.2 In this instance, this decision was taken under special urgency and it is therefore a requirement of the constitution that any decisions taken using special urgency are reported to Council. This is because the Council was unable to fulfil the usual requirement to publish notice of a forthcoming key decision in the forward plan which was waived with the consent of the Chairman of Overview and Scrutiny.
- 5.3 The Council uses these powers sparingly but found that it needed to utilise these provisions in relation to providing Freedom Leisure with financial support due to Covid 19.
- 5.4 The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 ("the Regulations") came into force requiring all indoor fitness studios, gyms, swimming pools or other leisure centres to remain closed for a period of up to 6 months. As a consequence, Fenland District Council negotiated a relief package with Freedom Leisure which is consistent with the provisions of its contract with them and government guidance. The relief package was required as a matter of urgency in order that Freedom Leisure was able to meet its ongoing financial obligations.
- 5.5 Freedom Leisure required the financial relief package to be in place by 1st May to ensure its financial obligations, in particular its payroll, could be met as this was prior to the government's furlough scheme being accessible. The Council continues to lobby government regarding its Covid 19 related costs, which includes this support to Freedom Leisure as well as the many other additional calls on our finances in the current times. The first two tranches of monies received from government amount to £1,088,965 and this will provide some assistance and will fully offset the financial support given to Freedom Leisure however we will continue to make government aware of our financial situation and lobby for further financial support.

- 5.6 The decision was urgent as it was necessary, to protect the Council's best interests, to ensure all relevant legal, financial and industry advice was taken against the backdrop of the global pandemic to ensure any decision taken represented what was best for the Council and its interests. The decision was flagged on the Council's Forward Plan but not for the full 28 days hence the permission sought from the Chairman of Overview and Scrutiny to waive this provision.
- 5.7 The decision notice is appended to this report.

OFFICER DECISION RECORD

<p>CMT Officer: Carol Pilson, Monitoring Officer</p>	<p>Delegated Power Being Exercised:</p> <p>Part 3, Table 4, Functions delegated to officers: Monitoring Officer, Paragraph 47, Page F19 of the Constitution.</p> <p>To amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council (in respect of any nonexecutive function) or the Cabinet in respect of any executive function. Decisions made or action taken in relation to amendments, which are not subsequently ratified, by the Council or Cabinet remain lawful.</p>
<p>Subject of Decision:</p>	<p>Under existing Local Government legislation, local authority members are required to attend meetings in person and in ordinary circumstances, failure to attend a meeting in this way over a period of 6 months can result in loss of office. In addition the press and public have the right to attend meetings and view paper copies of all of the documentation associated with the meeting (such as notices, agendas and minutes) and the items to be discussed (such as reports and background papers) unless they are confidential or exempt.</p> <p>The Government has recognised that these ordinary arrangements cannot be achieved amidst the current Covid-19 crisis and, in order therefore to enable local authorities to continue the delivery of vital services, The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the 'Regulations') came into force on 4th April 2020. These Regulations make provisions for meetings to take place remotely such that members, the press and public can be 'present' at a meeting remotely. There are equally provisions which enable meetings to be cancelled and postponed, for appointments which are normally made at annual council to carry over and for the Council's obligations with regard to the publication/production of documents to be met by making them available to view on the website.</p> <p>Successful implementation of the Regulations requires that changes are made to the Constitution, including the Standing Orders so that there is absolute clarity about the way in which meetings will take place during the lifetime of the Regulations which are currently stated to last until 7th May 2021. Remote Meetings Procedure Rules have been drawn up setting out the arrangements and protocol for future Council, Cabinet and Committee meetings and they take precedence over existing Standing Orders where there are any interpretative discrepancies. In order however to avoid the possibility of uncertainty, amendments have also been proposed to the Constitution to reflect/clarify the changes made by the Procedure Rules but leaving the existing provisions in place so</p>

	<p>that maximum flexibility can be achieved throughout the relevant period.</p>
<p>Reason for the Decisions (specify all reasons for taking the decisions including where necessary reference to Council policy)</p>	<p>The Monitoring Officer is responsible for ensuring the overall good governance of the Council. As part of this, the Monitoring Officer has delegated authority (as set out above) to make changes to the Constitution which are necessary to reflect changes in the law or to ensure the convenient and effective discharge of council functions.</p> <p>The Virtual Meetings Procedure Rules and associated amendments to the Constitution are designed to implement the Regulations and, peripheral to the specific legislative changes that have been introduced, to ensure that council functions can be conveniently and effectively discharged.</p> <p>Having regard to the above, the Monitoring Officer is empowered to make the necessary changes described and will present them for ratification as required at the next Full Council meeting.</p>
<p>Alternative Options Considered (if appropriate)</p>	<p>The only alternative to the option proposed is that the implementation of the Virtual Meetings Procedure Rules and associated changes to the Constitution are deferred until the next meeting of Full Council. This option has been disregarded as the legislative changes come into effect and supersede the Council's existing arrangements in any event. Consequently, in order to ensure that members, officers and the press and public have a clear understanding of the way in which the changes are being implemented by Fenland District Council it was considered necessary to reflect this in an open and specific way particularly as it is likely that remote meetings will take place prior to the next meeting of Full Council.</p>
<p>Background/Reports/Information considered and attached (Legal, Personnel, Financial Implications etc)</p>	<p>The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020</p> <p>LLG Model Guidance Virtual Meetings Procedure Rules (attached) Updated sections of the Constitution (attached)</p>
<p>Decision:</p>	<p>Having taken appropriate legal advice and consulted with colleagues and Group Leaders, the Monitoring Officer has taken the following decision:</p> <ul style="list-style-type: none"> - To implement the Virtual Meetings Procedure Rules; and - To arrange for Member Services to update the Constitution to reflect the changes necessary to give effect to the Procedure Rules; and - To publish the final versions of the above documents on the Council's website.

Signature & Date:



**Carol Pilson
Monitoring Officer**

Date: 30/04/20

Signature & Date:



**Cllr Chris Boden
Leader and Finance Portfolio Holder**

Date: 30/4/20.

For Office Use Only

**Date copy passed to
Member Services**

FENLAND DISTRICT COUNCIL
VIRTUAL MEETINGS PROCEDURE RULES

1. Introduction

- 1.1 These Procedure Rules have been made by the Monitoring Officer in accordance with the delegation set out at Table 4, paragraph 47 of the Constitution in order to implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the 'Regulations').
- 1.1 The Regulations enable the council to hold meetings without all, or any, of the members being physically present in a room. They allow for remote meetings through electronic and digital means at virtual locations using video and telephone conferencing, live webcast and live interactive streaming.
- 1.2 The "place" at which the meeting may be held may be a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address or a conference call telephone number.
- 1.3 In order for members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard (and where practicable, see and be seen) by other councillors and members of the public attending remotely or in person.
- 1.4 The procedure rules in this document take precedence over council standing orders in relation to the governance of remote meetings. For the avoidance of doubt, where there is any inconsistency between these procedure rules and existing provisions in the Council's Constitution, these rules shall take precedence.
- 1.5 In line with the Regulations, this document is designed to provide a guide to virtual formal committee meetings involving Members, officers and the public during the Covid-19 crisis and comes into force with effect from [xxxx].
- 1.6 This document will remain in force until 7th May 2021 unless otherwise extended or revoked.

2 Remote Attendance**2.1 Members**

- (a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:

- (i) They can hear and be heard and, if it is their preference and/or technology allows, they can see and be seen by other members in attendance;
 - (ii) to hear and be heard and where applicable (in accordance with paragraph 2.1(a)(i) above) to see and be seen by any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and where applicable (in accordance with paragraph 2.1(a)(i) above), to be seen by any other members of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 2.1(a) above are not met. In such circumstances the Chair may, as they deem appropriate;
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in 2.1(a) above to be re-established;
 - (ii) count the number of Members in attendance for the purposes of the quorum; or
 - (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

For the avoidance of doubt, it is not a requirement for a member to see or be seen in order to attend a meeting, it is sufficient that they can hear and be heard. Equally, a member will not be deemed to have left a meeting even if they joined the meeting being able to see and be seen provided that they can still hear and be heard.

2.2 Members of the Public

- (a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
- (i) they can hear and be heard and, if it is their preference and/or technology allows, they can see and be seen by Members in attendance;
 - (ii) to hear and be heard and where applicable (in accordance with paragraph 2.2(a)(i) above), to see and be seen by any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting;
 - (iii) to be so heard and where applicable (in accordance with paragraph 2.2(a)(i) above), to see and be seen by any other members of the public attending the meeting.

- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in paragraph 2.2(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in paragraph 2.2(a) above to be re-established;
 - (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
 - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

For the avoidance of doubt, it is not a requirement for a member of the public to see or be seen in order to attend a meeting, it is sufficient that they can hear and be heard. Equally, a member of the public will not be deemed to have left a meeting even if they joined the meeting being able to see and be seen provided that they can still hear and be heard.

3. Decisions of Formal Meetings of the Council, Cabinet, and Committees

- 3.1 Decisions to be taken over the next 3 to 6 months are under review and virtual meetings will be called on a case by case basis and where necessary in ensuring that vital business can continue to be transacted.

4. Virtual Meetings of Full Council, Cabinet and Committees

- 4.1 Ordinary meetings of Full Council, Cabinet and Committees will take place using the Zoom software platform.

5 Questions By Members

5.1 Portfolio Holder's Briefing Report ("PHB")

Save in respect of the 2020/21 Annual Meeting, Cabinet Members will continue to take questions from members in relation to the PHB however these must be presented in writing via the Chief Executive no later than the third working day before the date of the meeting. A copy of the questions will be circulated electronically and published on the Council's website. The Chairman will invite each member to read out their question and the relevant cabinet member will then respond.

5.2 Written Questions

Save in respect of 2020/21 Annual Meeting, the Council will continue to take written questions in accordance with the ordinary procedure set out in the Constitution.

6 Petitions

6.1 During the Covid-19 crisis it will not be possible to accept paper petitions. An electronic petition will be acceptable provided it meets the ordinary requirements of the Council's Petition Scheme (<https://www.fenland.gov.uk/localgove/mgePetitionListDisplay.aspx>).

6.2 Save in respect of the 2020/21 Annual Meeting, the member of the public submitting the petition will be invited to submit a speech in writing as there will be no opportunity to present the petition in person. A copy of the petition will be circulated electronically and published on the Council's website. The provision to submit petitions signed by 500 people or more for debate by Full Council will however be suspended during the Covid-19 crisis but will be sent to the relevant executive member, committee or council officer for a written response.

7 Public Questions at Full Council

7.1 Save in respect of the 2020/21 Annual Meeting, the Council will continue to take questions from the public as set out in the Constitution. The member of the public asking the question will need to submit their question in writing as there will be no opportunity to ask the question in person. A copy of the question will be circulated electronically and published on the Council's website. The Chairman will read the question out. The relevant Member will respond to the question within the normal timeframe. The provision for a supplementary question will be removed.

8 Motions

8.1 Members will have the ability to submit motions to Council as set out in the Constitution. In order for the Motion to be accepted, the Member submitting the motion will need to provide the Monitoring Officer with evidence that it is time critical.

8.2 Members are asked to consider carefully the need for amendments. Political groups are asked to contact the mover of a motion to see if their amendment can be treated as an alteration. If that is not the case, political groups are asked to vote against the motion rather than move an amendment.

9. Speaking at Virtual Full Council Meetings

9.1 Speeches from Members should be kept to a minimum. There will be no Points of Order or Personal Explanation. Members who wish to speak during a meeting will need to click on the "raise your hand" icon within the participant section and then they will be invited to speak by the Chairman. Members are asked to state their name before making a comment.

10 Voting at Full Council Meetings

Voting will be managed through the Chairman via the Host Officer. If an item requires an electronic vote, the Chairman will ask all Members to turn their microphones on. The Chairman will then read out the name of each Member in turn in alphabetical order and ask them how they wish to vote. Once a Member has given their vote then microphones should be muted again. The Member Services Officer minuting the meeting will record the outcome of the voting and announce it at the meeting. If an item does not appear to be contentious, the Chairman will ask Members whether any Member disagrees or wishes to abstain. This will be actioned by the Member clicking on the “raise your hand” icon within the participant section. If nobody objects the motion will be taken as carried.

11 Other formal meetings of Council – Cabinet and Committees

Other formal meetings of Council, including Cabinet and Committees will follow the same procedure as above where applicable. The process for debate may vary at the discretion of the Chairman.

12 Running a Virtual Meeting

Joining a Virtual Meeting

- 12.1 All meeting participants will be required to utilise their personal IT equipment to access meetings.
- 12.2 Councillors are encouraged to join the meeting promptly (i.e. at least ten minutes before the scheduled start time) in order to resolve any issues with joining and avoid disrupting the meeting. The Chairman will remind councillors to mute their microphones when not speaking. This is done in order to reduce feedback and background noise. The Host Officer may perform this function as well.

Access to Documents

- 12.3 Member Services will publish the agenda and reports for all meetings on the Council’s website and will notify councillors by email. Printed copies will not be available for inspection at the Council’s offices.

Public Access

- 12.4 The following wording will be added to the Council’s website as well as to the meeting page for each meeting.

Due to Government guidance on social-distancing and the Covid-19 virus it will not be possible to hold a physical meeting of the XXX on XXX. Arrangements are being made for the press and public to follow the decision-making via YouTube. Details of how to watch the meeting will be published on the Council’s website.

- 12.5 The requirement to ensure meetings are open to the public includes access by remote means, including video conferencing, live webcast and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

Registering Attendance and Meeting Etiquette

- 12.6 At the start of the meeting, the Chairman will carry out a roll call of all Members present. Confirmation will be given by each Member switching their video on and unmuting their microphone to confirm they are present.
- 12.7 All Members and officers except the Chairman are asked to keep their microphones on mute unless invited to speak. Any Member returning after a disconnection is asked not to interrupt when returning to announce their return.

Members Speaking at Meetings

- 12.8 Members who wish to speak during a meeting will need to click on the “raise your hand” icon within the participant section. The Chairman may ask each person in turn if they have any points they wish to raise on a particular item before completing the discussion on that item. When referring to reports or making specific comments, Members should refer to the report and page number in the agenda document pack so that all Members have a clear understanding of what is being discussed at all time.

Exclusion of Press and Members of the Public

- 12.9 The press and members of the public will not be able to access virtual meetings considering exempt or confidential information and those parts of the meetings will not be webcast.

Dealing with technical difficulties

- 12.10 In the event that the Chairman or the Host Officer identifies a failure of the remote participation facility, the Chairman will declare an adjournment while the fault is addressed. If it is not possible to address the fault and the meeting is inquorate, the meeting will be abandoned until such time as it can be reconvened. If the meeting is quorate, the Chairman will decide if this meeting should continue, depending on the difficulties being experienced, or whether it should be adjourned until a later time or date.

13 Review

These rules will be kept under regular review and updated as necessary by the Monitoring Officer under the delegation at Table 4, paragraph 47 of the Constitution.

PART 1

SUMMARY AND EXPLANATION

SUMMARY AND EXPLANATION

1. THE COUNCIL'S CONSTITUTION

- 1.1 Fenland District Council has agreed to a new Constitution which sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into 16 articles which set out the basic rules governing the Council business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

Article 1 of the Constitution commits the Council to provide clear leadership in the community in partnership with citizens, business and other organisations; to take decisions effectively, to hold decision-makers to public account, and to improve the delivery of services to the community. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are: -

- Members of the Council (Article 2);
- Citizens and the Council (Article 3);
- The Council Meeting (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny decisions (Article 6);
- The Cabinet (Article 7);
- Regulatory and other committees and panels (Article 8);
- The Conduct Committee (Article 9)¹;
- Area committees (Article 10);
- Joint arrangements (Article 11);
- Officers (Article 12);
- Decision making (Article 13);
- Finance, contracts and legal matters (Article 14);
- Review and revision of the Constitution (Article 15); and
- Suspension, interpretation and publication of the Constitution (Article 16).

2. HOW THE COUNCIL OPERATES

- 2.1 The Council comprises 39 councillors all elected every four years. Councillors are democratically accountable to the

¹ Amendment approved 26th July 2012

residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

- 2.2 Councillors have to agree to a code of conduct to ensure high standards in the way they undertake their duties. The Conduct² Committee trains and advises them on the code of conduct.
- 2.3 All Councillors meet together as the Council and meetings are normally open to the public whether remotely or in person. Here Councillors decide the Council's overall policies and set the budget (which includes the annual revenue budget and capital programme) each year. The Council also approves the Policy Framework which comprises a series of major plans. The Cabinet has to work within the Budget and the Policy Framework approved by the Council. The Council can approve (or reject) any proposals from Cabinet for action which is outside the Budget or the Policy Framework.

3. HOW DECISIONS ARE MADE

- 3.1 The Cabinet is the part of the Council that is responsible for most day to day decisions. The Cabinet is made up of the Leader of the Council appointed by the Council, usually for a four year term, and up to nine Councillors appointed by the Leader to form the Cabinet. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan as far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for members of the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be to the Council as a whole to decide.³

4. OVERVIEW AND SCRUTINY

- 4.1 The Overview and Scrutiny Panels support the work of the Cabinet and Council as a whole. The Panels allows citizens to have a greater say in Council matters by holding enquiries into matters of local concern. Reports and recommendations are prepared by the Panels that advise the Cabinet and Council as a whole on its policies, budget and service delivery. The Panels also monitor the decisions of the Cabinet. They can "call in" a decision that has been made by the Cabinet but not yet implemented. This enables the Panels to consider if the

² Amendment approved 26th July 2012

³ Amendment approved 16th December 2010

decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.⁴

5. THE COUNCIL'S STAFF

5.1 The Council has people working for it (called "officers") to give advice, implement decisions and manage the day to day delivery of services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and Councillors.

6. CITIZENS' RIGHTS

6.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, while others depend on the Council's own processes. The local Citizens' Advice Bureau or a solicitor can advise on individuals' legal rights.

6.2 Where members of the public use specific Council services they have additional rights. These are not covered in this Constitution.

6.3 Citizens have a right to: -

- vote at local elections if they are registered;
- contact their local Councillor(s) about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Cabinet, committees and panels whether remotely or in person except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum for a mayoral form of executive;
- submit petitions in accordance with the Councils Petition Scheme⁵
- contribute to the investigations by the Overview and Scrutiny Panel by submitting evidence and comments on the enquiries being undertaken;
- find out from the Cabinet's forward plan what major matters are to be discussed by the Cabinet or decided by members of the Cabinet or officers and when;

⁴ Amendment approved 25th February 2010, amendment approved 26th July 2012

⁵ Amendment approved 29th July 2010

- attend meetings of the Cabinet where key decisions are being discussed or decided (whether remotely or in person);
- see reports and background papers and any record of decisions made by the Council and the Cabinet (whether remotely or in person);
- complain to the Council about the standard of service provided in accordance with the Council's complaints scheme;
- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However they should only do this after using the Council's own complaints scheme;
- complain to the Conduct Committee⁶ if they have evidence which they think that a Councillor has not followed the Council's code of conduct; and
- inspect the Council's accounts (when they are on deposit) and make their views known to the external auditor (whether remotely or in person).

6.4 The Council welcomes participation by its citizens in its work. Further information on your rights as a citizen can be obtained from the Council's Members Services at Fenland Hall, County Road, March, Cambridgeshire PE15 8NQ telephone 01354 654321⁷. It should be noted however that whilst The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 remain in force, the arrangements for local authority meetings and access to documentation will take place remotely and in-line with the Virtual Meetings Procedure Rules and associated amendments to the Standing Orders.

⁶ Amendment approved 26th July 2012

⁷ Amendment approved 25th September 2008

PART 2

ARTICLES OF THE CONSTITUTION

Article	1	The Constitution
	2	Members of the Council
	3	Citizens and the Council
	4	The Full Council
	5	Chairing the Council
	6	Overview and Scrutiny
	7	The Cabinet
	8	Regulatory and Other Committees and Panels
	9	Conduct Committee ⁸
	10	Area Committees and Forums
	11	Joint Arrangements
	12	Officers
	13	Decision Making
	14	Finance Contracts and Legal Matters
	15	Review and Revision of the Constitution
	16	Suspension, Interpretation and Publication of the Constitution
Schedule 1		Description of Executive Arrangements

⁸ Amendment approved 26th July 2012

ARTICLE 1 – THE CONSTITUTION

1. POWERS OF THE COUNCIL

1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution.

2. THE CONSTITUTION

2.1 This Constitution, and all its appendices, is the Constitution of Fenland District Council.

3. PURPOSE OF THE CONSTITUTION

3.1 The purpose of the Constitution is to:-

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision making;
- (c) support the Council in achieving its strategic vision for the District.
- (d) help Councillors represent their constituents more effectively;
- (e) enable decisions to be taken efficiently and effectively;
- (f) create a powerful and effective means of holding decision-makers to public account;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (h) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (i) provide a means of improving the delivery of services to the community.

4. INTERPRETATION AND REVIEW OF THE CONSTITUTION

4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

5. COUNCIL MISSION, VISION AND VALUES⁹

Our twenty year vision for the area is a shared vision developed by the Fenland Strategic Partnership (FSP):

“A district where there is a high quality of life for all, now and in the future, which is known as a great place to live, work, learn and visit - a place to be proud of”

The FSP is made up of the following partners:

- Cambridgeshire ACRE
- Age Concern
- Business Link
- Central Association of Local Councils
- Cambridgeshire County Council
- Cambridgeshire Constabulary
- Fenland CVS
- NHS Cambridgeshire
- College of West Anglia
- Fenland District Council
- Roddons Housing Association
- Cambridgeshire Fire Authority

Our vision for the Council is to be:

“An efficient, progressive and well governed organisation which has the capacity to deliver current and future local and national priorities.”

Our mission as a Council is:

“To improve quality of life for people living in the Fenland district”

In support of our vision and mission we have developed organisational core values that underpin our approach to the work we do. Our core values are:

- Value, respect and dignity for all
- Adopt a positive one team approach
- Listen, talk and take action
- Understand, learn and improve
- Encourage, enable and effectively support
- Service excellence

⁹ Amendment approved 25th February 2010

ARTICLE 2 – MEMBERS OF THE COUNCIL

1. COMPOSITION AND ELIGIBILITY

1.1 Composition

The Council comprises 39 members, otherwise called councillors. One or more councillors are elected by the voters of each ward in accordance with the scheme drawn up by the Electoral Commission and approved by the Secretary of State.

1.2 Eligibility

Only registered voters of the Fenland District or those living or working here or own or rent land/property in the district are eligible to stand for the office of councillor.

2. ELECTION AND TERMS OF COUNCILLORS

2.1 The regular election of all 39 councillors will be held on the first Thursday in May every four years beginning in May 2003 . The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next quadrennial election.

3. ROLES AND FUNCTIONS OF ALL COUNCILLORS

3.1 Key Roles – All councillors will:-

- (a) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) effectively represent the interests of their ward and individual constituents;
- (d) respond to constituents' enquiries and representations fairly and impartially;
- (e) participate in the governance and management of the Council;
- (f) be eligible to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

3.2 Rights and Duties

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it; and
- (c) for these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

4. CONDUCT

- 4.1 Councillors will at all times observe the Members’ Codes of Conduct and the Protocol on Member/Officer relations set out in Part 5 of this Constitution as from time to time revised by the Council.

5. ALLOWANCES

- 5.1 Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution as from time to time approved¹⁰ by the Council.

¹⁰ Amendment approved 25th February 2010

ARTICLE 3 – CITIZENS AND THE COUNCIL

1. CITIZENS’ RIGHTS

1.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution and whilst they remain in force should be read in conjunction with the Virtual Meetings Procedure Rules-

(a) Voting and Petitions

Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected Mayor form of governance.

(b) Information

Citizens have the right to:-

- (i) attend meetings of the Council and its Cabinet, committees and panels except where confidential or exempt information is likely to be disclosed and the meeting is, therefore, held in private;
- (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers and any records of decisions made by the Council, the Cabinet, committees and panels; and
- (iv) inspect the Council’s accounts when they are on deposit and make their views known to the external auditor.
- (v) Submit petitions in accordance with the Councils Petition Scheme.¹¹

(c) Participation

Citizens have the right to speak at Council meetings and Cabinet meetings in accordance with the relevant rules set out in part 4 of the Constitution.¹²

Citizens have the right to participate in investigations by the Overview and Scrutiny Panel.

¹¹ Amendment approved 29th July 2010

¹² Amendment approved 25th February 2010

(d) **Complaints**

Citizens have the right to complain to:-

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme; and
- (iii) the Conduct Committee¹³ about a breach of the Members' Codes of Conduct.

2. CITIZENS' RESPONSIBILITIES

- 2.1 Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. They must not interrupt proceedings, speak, sing or otherwise create a disturbance when attending any meeting of the Council, Cabinet or other decision-making bodies of the authority.

¹³ Amendment approved 26th July 2012

ARTICLE 4 – THE FULL COUNCIL

1. MEANINGS

1.1 **Policy Framework** – the policy framework means the following plans and strategies:¹⁴

- ¹⁵(a) Corporate Plan
- (b) Community Strategy
- (c) Crime and Disorder Reduction Strategy
- (d) Development Plan Documents (DPDs)¹⁶
- (e) The Housing Strategy¹⁷
- (f) Corporate Asset Management Plan
- (g) Cultural Strategy
- (h) Economic Development Strategy
- (i) Waste Management Plan
- (j) Budget
- (k) Medium Term Financial Strategy
- (l) Capital Strategy
- (m) Making of Neighbourhood Plans and Neighbourhood Development Orders¹⁸

1.2 **Budget** – the budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits;

1.3 **Housing Land Transfer** – Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

2. FUNCTIONS OF THE FULL COUNCIL

2.1 Only the Council will exercise the following functions:-

- (a) approving and reviewing the Council's Constitution to ensure the continuous improvement of local democracy

¹⁴ Amendment approved 21st December 2006

¹⁵ Amendment approved 26th July 2012

¹⁶ Amendment approved 14th December 2017

¹⁷ Amendment approved 26th July 2012

¹⁸ Amendment approved 14th December 2017

as recommended by the Cabinet or Scrutiny Review Panel via Cabinet;

- (b) approving or adopting the policy framework, budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader of the Council at the first annual Council meeting following a whole Council election or at any subsequent meeting, should the serving leader cease to be Leader;¹⁹
- (e) agreeing and/or amending the terms of reference for committees and panels, deciding on their composition and making appointments to them;
- (f) adopting an allowances scheme under Article 2.5;
- (g) changing the name of the area and any functions relating to electoral arrangements;
- (h) approving the appointment of and dismissing, the Chief Executive²⁰ and confirming the designation and dismissal²¹ of Monitoring Officer and Chief Finance Officer;
- (h1) receive notification of nominated Deputy Monitoring Officer and Deputy Chief Finance Officer;²²
- (i) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (j) the functions described in Article 11 (Delegation to and from other local authorities and under joint arrangements);

¹⁹ Amendment approved 16th December 2010

²⁰ Amendment approved 25th February 2010

²¹ Amendment approved 11th May 2017

²² Amendment approved 25th February 2010

- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (l) those functions set out in Sections 5-8 of the Licensing Act 2003 including determining Licensing Policy and appointing a Licensing Committee;
- (m) to approve²³ payments or provide other benefits in cases of maladministration
 - (m1) approval of the Council's Petitions Scheme²⁴
 - (m3) approving the Council's senior pay policy²⁵
- (n) all other matters which, by law, must be reserved to the Council.

3. COUNCIL MEETINGS

3.1 There are three types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings; and
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution and, whilst they remain in force the Virtual Meetings Procedure Rules.

4. RESPONSIBILITY FOR FUNCTIONS

4.1 The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

²³ Amendment approved 25th February 2010

²⁴ Amendment approved 29th July 2010

²⁵ Amendment approved 11th May 2017

ARTICLE 5 – CHAIRING THE COUNCIL

1. ROLE AND FUNCTION OF THE CHAIRMAN

1.1 The Chairman will be elected by the Council annually in accordance with the Council Procedure Rules in Part 4 of this Constitution. The Chairman of the Council and, in his/her absence, the Vice-Chairman of the Council will have the following roles and functions:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution fairly and impartially when necessary in Council meetings;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to be the civic and ceremonial head of the Council and to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

ARTICLE 6 – OVERVIEW AND SCRUTINY

1. TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY PANEL

1.1 The Council will appoint Overview and Scrutiny Panels, as set out in Table 1 of the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution, to discharge the functions conferred by Section 21 of the Local Government Act 2000 as amended²⁶.

2. GENERAL ROLE

2.1 Within its terms of reference, the Overview and Scrutiny Panel will:-

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions including the actions of other partner organisations within the Local Strategic Partnership²⁷;
- (b) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions or to assist in the formation of policy²⁸;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right of call-in, for reconsideration, decisions made but not yet implemented by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet or a key decision made by an officer.
- (e) Deal with matters referred to it by Members acting in response to their duties under the Local Government Act 2000 as amended.²⁹

3. SPECIFIC FUNCTIONS

3.1 The Overview and Scrutiny Panel will³⁰:-

- (a) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;

²⁶ Amendment approved 8th May 2008

²⁷ Amendment approved 8th May 2008

²⁸ Amendment approved 25th February 2010

²⁹ Amendment approved 8th May 2008

³⁰ Amendment approved 25th February 2010

- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the Cabinet and/or committee and panels and senior officers* about their views on issues and proposals affecting the area; and
- (e) liaise with other external organisations operating within the area whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working,
- (f) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and panels and senior officers* both in relation to individual decisions and over time;
- (g) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and make recommendations where these are identified³¹;
- (h) question members of the Cabinet and/or committees and panels and senior officers* about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (h1) receive petitions calling officers to account in accordance with the Councils Petition Scheme.³²
- (h2) review the steps taken to respond to a petition in accordance with the Councils Petition Scheme.³³
- (i) make recommendations to the Cabinet and/or appropriate committees and panels and/or Council arising from the outcome of the scrutiny process;
- (j) review and scrutinise the performance of other public bodies in the area and receive reports from them by inviting them to address an Overview and Scrutiny Panel and local people about their activities and performance; and

³¹ Amendment approved 25th February 2010

³² Amendment approved 29th July 2010

³³ Amendment approved 29th July 2010

- (k) question and gather evidence from any person (with their consent), including officers.

3.2 Finance

The Overview and Scrutiny Panel may exercise overall responsibility for the finances made available to it.

3.3 Annual Report

The Overview and Scrutiny Panel must report, at least annually, to the full Council on its workings and working methods.

4. PROCEEDINGS OF THE OVERVIEW AND SCRUTINY PANEL

- 4.1 The Overview and Scrutiny Panel will conduct its proceedings in accordance with the Procedure Rules set out in Part 4 of this constitution and whilst they remain in force, the Virtual Meetings Procedure Rules-

(*Note: for the purpose of this Article, the term “senior officer” means Chief Executive and Corporate Directors³⁴)

³⁴ Amendment approved 26th July 2012

ARTICLE 7 – THE CABINET

1. THE CABINET

- 1.1 The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

2. FORM AND COMPOSITION

- 2.1 The Cabinet will consist of up to ten councillors but no fewer than two and will include the Leader of the Council acting as Chairman. The full Council will appoint the Leader at the first annual Council meeting following a whole Council election, or at any meeting if a vacancy occurs. The Leader shall determine the number of other councillors to be Cabinet members and appoint them.³⁵

- 2.2 The Council will not subsequently alter the holder of the position of Leader unless any circumstances in paragraph 3 below apply.

3. LEADER

- 3.1 The Leader, who will be Chairman of the Cabinet, will be a Councillor and will be elected to the position of Leader by the Council at the first annual meeting following a whole Council Election. The Leader will hold office until the day of the post-election annual meeting which follows his / her election as Leader unless before the date of that meeting: -

- (a) he/she resigns from the office; or
- ³⁶(b) he/she is no longer a Councillor; or
- (c) he/she is removed from office by resolution of the Council.

If the serving leader ceases to be Leader for one of the above reasons, the Council will elect a new Leader to serve until the day of the post-election annual meeting which follows their election as Leader.³⁷

³⁵ Amendment approved 16th December 2010

³⁶ Amendment approved 26th July 2012

³⁷ Amendment approved 16th December 2010

33(i) Amendment approved 24th July 2014

4. **CABINET MEMBERS** ³³⁽ⁱ⁾

- 4.1 ³⁸Cabinet members shall hold office until -
- (a) they resign from the office (individually or collectively)
 - ³⁹(b) they are no longer Councillor(s) (individually or collectively); or
 - (c) they are removed from office either individually or collectively by the Leader⁴⁰
- 4.2 Changes by the Leader to the membership of the Cabinet, including the introduction of a new Cabinet Member, will take place immediately but will be reported to Council at the next meeting.⁴¹
- 4.3 The Leader will nominate one member of the Cabinet as his/her deputy to assume the full powers of the Leader in any circumstances in which the Leader is unable to act. The Deputy Leader will also act as the Leader if the post of Leader is vacant.
^{39 38(i)}
- 4.4 [Deleted] ⁴²
- 4.5 The Deputy Leader will hold office until the end of the Leader's term of office, unless removed by the Leader or any of the reasons set out in in 4.1 (a) or (b) apply. ^{39 38(i)}

5. **PROCEEDINGS OF THE CABINET**

- 5.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution and the Virtual Meetings Procedure Rules whilst they remain in place.

6. **RESPONSIBILITY FOR FUNCTIONS**

- 6.1 The Leader will maintain or arrange to be maintained a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees appointed by the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

³⁸ Amendment approved 25th February 2010

³⁹ Amendment approved 26th July 2012

⁴⁰ Amendment approved 25th February 2010

⁴¹ Amendment approved 25th February 2010

⁴² Amendment approved 16th December 2010

³⁸⁽ⁱ⁾ Amendment approved 24th July 2014

³⁹ Amendment approved 23rd July 2015

- 6.2 The Cabinet will publish a Forward Plan for at least four months in advance showing the timetable for preparing, consulting and submitting draft Plans for the Council for consideration and adoption. The Plan will be updated at the first meeting of the Cabinet each month.
- 6.3 The Leader will determine the scope of portfolios to reflect the corporate themes and priorities. The Leader may assign a member of the Cabinet one or more than one portfolio as he or she decides. Portfolio changes will take effect whenever the Leader decides, thus giving the flexibility needed to cover all circumstances including short-term absences⁴³

⁴³ Amendment approved 25th February 2010

**ARTICLE 8 – REGULATORY AND
OTHER COMMITTEES AND PANELS**

1. REGULATORY AND OTHER COMMITTEES AND PANELS

1.1 The Council will appoint the committees and panels set out in the left hand column of the Table 2, Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

1.2 Meetings of the committees and panels will take place in accordance with the Virtual Meetings Procedure Rules whilst they remain in force.

ARTICLE 9 – CONDUCT COMMITTEE & HEARING PANEL⁴⁴

1. CONDUCT COMMITTEE

1.1 The Council will establish a Conduct Committee, the membership of which shall as far as practicable be politically proportionate.

1.2 Membership

1.2.1 The Conduct Committee shall comprise of 5 elected Councillors all of whom will be required to undertake relevant training.

1.2.2 The Committee will appoint, at its first meeting following the annual meeting of the Council, its Chairman and Vice-Chairman for the forthcoming year.

1.2.3 The Conduct Committee shall be entitled to co-opt up to two representatives from Town or Parish Councils from within the District who may sit with the and consider matters before it. They shall have the right to speak and engage with the debate of the committee however they do not have a right to vote.

1.2.4 The Council's designated Independent Person shall sit alongside the Conduct and any Hearing Panel to offer advice in a non-voting capacity. Members must take account the views of the Independent Person in reaching decisions.

1.2.5 The Conduct Committee will be considered to be quorate where 3 or more members are present and Rule 24.3 of the Council's Standing Orders will not apply to Rule 7 in this context.

1.3 Role and Functions

1.3.1 The Conduct Committee will have the following role and functions in respect of the District Council and its members and Town and Parish councils and their members:

- promoting and maintaining high standards of conduct by Members;
- assisting Members and co-opted Members to observe their authority's Codes of Conduct;
- advising the Council on the adoption or revision of a Code of Conduct;

⁴⁴ Amendment to Article 9 approved 18th September 2019

- monitoring the operation of the Codes;
- advising, training or arranging to train members and co-opted members on matters relating to the Code;
- to make recommendations to the Council on the appointment of its Independent Person(s); and
- to have oversight of Parish and Town Council's Codes of Conduct and Registers of Interests and authority to hear complaints relating to town or parish councillors.

1.3.2 The Monitoring Officer, in consultation with the Chairman of the Conduct Committee and the Independent Person, may issue dispensations to any member in respect of statutory and non-statutory disclosable interests. The Conduct Committee will receive a report on such cases at the next available meeting.

1.3.3 The Chairman of the Conduct Committee will be able to attend meetings of the full Council to present reports, answer questions and respond to motions on the work of the Committee in accordance with the appropriate provisions of the Rules of Procedure.

2. HEARING PANEL

2.1. Whenever necessary the Chairman or Vice-Chairman of the Conduct Committee shall appoint a Sub-Committee in consultation with the Monitoring Officer for the purpose of considering and determining conduct complaints ("Hearing Panel"). Meetings of the Sub-Committee will take place in accordance with the Virtual Meetings Procedure Rules whilst they remain in force.

2.2. Membership

2.2.1. The Hearing Panel shall comprise three members of the Conduct Committee, including either the Chairman or Vice-Chairman all of whom must be present for the meeting to be quorate.

2.2.2. The membership of the panel shall, as far as practicable, be politically proportionate.

2.2.3. The Council's designated Independent Person or Deputy shall sit alongside the Hearing to offer advice in a non-voting capacity.

2.2.4. Where the complaint relates to a Town or Parish Councillor the co-opted representatives will also be invited to sit alongside the Hearing Panel to offer advice in a non-voting capacity.

2.3. Role and Functions

2.3.1. The Hearing Panel will have the following roles and functions in respect of members of the District, Town and Parish councils and shall perform these in accordance with Rule 9 of the Constitution:

- Hearing and determining complaints referred by the Monitoring Officer;
- Issuing appropriate sanctions when it has determined that the subject of a complaint has been found to have breached the Code of Conduct.

ARTICLE 10 – AREA COMMITTEES, FORUMS AND TASK GROUPS

1. AREA COMMITTEES/FORUMS

- 1.1 The Council may appoint area committees or forums as it sees fit. Such area committees or forums may be decision making if the Council is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. Such committees will meet in accordance with the Remote Meetings Procedure Rules whilst in force.
- 1.2 The Council will consult with the relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees or forums.

2. TASK GROUPS

2.1 ROLE

2.1.1. The Council, the Cabinet, any Council body and Portfolio Holders may establish temporary Task Groups to undertake specific work within their remit. Task Groups may not be authorised to exercise the powers of the Council. Task Groups shall operate until they have completed their tasks unless they are disbanded sooner by the bodies or Portfolio Holder which established them. The main role of a Task Group is to act in an advisory capacity. It is expected that Portfolio Holders in particular may wish to establish Task Groups to act as a sounding board and to advise him/her on improving service delivery with his/her portfolio.

2.2 COMPOSITION AND PROCEDURES

- 2.2.1 Unless the Leader of each registered Political Group agrees to the contrary, Task Groups will be appointed in accordance with the rules on political proportionality contained in the Local Government and Housing Act 1989 and having regard to councillors' particular interests, expertise and willingness to participate.
- 2.2.2 Task Groups shall elect their own Chairman and Vice-Chairman who shall be a councillor but not necessarily the relevant Portfolio Holder.
- 2.2.3 Task Groups meetings shall be minuted and Terms of Reference agreed at its first meeting.

2.3. SERVICE REVIEW AND DEVELOPMENT

2.3.1 When undertaking service review and development tasks, Task Groups assist the Council, Cabinet and the Portfolio Holder in the development of services (including budget allocation) by studying and discussing service issues; and to that end may

- (a) call on other councillors and senior Council officers to share their views and experience relevant to the policy under consideration;
- (b) encourage participation by members of the public, relevant outside organisations and other local authorities;
- (c) within the Council's arrangements and budget, commission or conduct enquiry research and consultation in analysing service issues and options;
- (d) liaise with external organisations to enhance collaborative working.

ARTICLE 11 – JOINT ARRANGEMENTS

1. ARRANGEMENTS TO PROMOTE WELL-BEING

- 1.1 The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:-
- (a) enter into arrangements or agreements with any person or body; or
 - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; or
 - (c) exercise on behalf of that person or body any functions of that person or body.

2. JOINT ARRANGEMENTS

- 2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities. (Such arrangements may involve the appointment of a joint committee with these other local authorities).
- 2.2 The Council may upon a proposal by the Cabinet establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- 2.3 Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- 2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in the following circumstances –
- the joint committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral ward which is wholly or partly contained within the area;
 - the joint committee is between Cambridgeshire County Council and the Council and relates to functions of the executive of the County Council. (In such cases, the executive of the County Council may appoint to the joint committee any Councillor who is a member for an

electoral division which is wholly or partly contained within Fenland).

In both of these cases the political balance requirements will not apply to such arrangements.

- 2.5 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

3. ACCESS TO INFORMATION

- 3.1 The Access to Information Rules in Part 4 of this Constitution apply and should be read in conjunction with the Virtual Meetings Procedure Rules whilst they remain in force.

- 3.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

- 3.3 If the joint committee contains members who are not on the Cabinet of either the County Council or the Council then the access to information rules in Part VA of the Local Government Act 1972 will apply.

4. DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES

- 4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

- 4.2 The Council may, upon a proposal by the Cabinet, delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

- 4.3 The decision whether or not to accept a proposal by the Cabinet under paragraphs 2.2 and 4.2 of this Article or to accept such a delegation from another local authority shall be reserved to the Council.

5. CONTRACTING OUT

- 5.1 The Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 12 – OFFICERS

1. TERMINOLOGY

1.1 In this Article use of the word “officers” means all employees and staff engaged by the Council to carry out its functions and includes those engaged under short-term, agency or other non-employed situations.

2. MANAGEMENT STRUCTURE

2.1 **General** – the Council may engage such officers as it considers necessary to carry out its functions.

2.2 **Chief Officers** – the Council will engage persons for the following posts, who will be designated chief officers:-

- Chief Executive⁴⁵
- Chief Finance Officer^{46 47}
- Monitoring Officer⁴⁸

Each of the Corporate Directors will deputise for the Chief Executive in his/her absence on a monthly rotating basis. Members will be provided with a copy of the rota for reference⁴⁹.

2.3 **Head of Paid Service, Monitoring Officer and Chief Finance Officer** – the Council will designate the following posts as shown:-

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director ⁵⁰	Monitoring Officer
Corporate Director ⁵¹ (Finance) ⁵²	Chief Finance Officer

Such posts will have the functions described in paragraphs 3 - 5 of this Article.

The Monitoring Officer and the Chief Finance Officer may designate suitably qualified persons to deputise for them in their

⁴⁵ Amendment approved 25th February 2010

⁴⁶ Amendment approved 25th September 2008

⁴⁷ Amendment approved 25th September 2008, Amendment approved 29th July 2010

⁴⁸ Amendment approved 26th July 2012

⁴⁹ Amendment approved 11th May 2017

⁵⁰ Amendment made 18th September 2019

⁵¹ Amendment approved 25th September 2008

⁵² Amendment approved 26th July 2012

absence,⁵³ provided that their designation is reported to the next council meeting.⁵⁴

- 2.4 **Structure** – the Head of Paid Service will determine and publicise a description of the overall staff structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

3. FUNCTIONS OF THE HEAD OF PAID SERVICE

- 3.1 **Discharge of functions by the Council** - the Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of staff.
- 3.2 **Restrictions on Functions** - the Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.
- 3.3 **Overall Corporate Management** - the Head of Paid Service has overall corporate management and operational responsibility (including overall management responsibility for all officers).
- 3.4 **Providing advice** - the Head of Paid Service provides professional advice to all parties in the decision making process.
- 3.5 **Record keeping** - together with the Monitoring Officer, the Head of Paid Service has responsibility for a system of record keeping of all the Council's decisions.
- 3.6 **Representing the Council** - the Head of Paid Service represents the Council on partnership and external bodies (as required by statute or the Council).

⁵³ Amendment approved 25th September 2008

⁵⁴ Amendment approved 25th February 2010

4. FUNCTIONS OF THE MONITORING OFFICER

- 4.1 **Maintaining the Constitution** - the Monitoring Officer will ensure that the Constitution is regularly monitored and reviewed and that an up-to-date version of the Constitution is maintained and that it is widely available for consultation by Councillors, officers and the public.
- 4.2 **Ensuring Lawfulness and Fairness of Decision Making** - after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given, or would give, rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 4.3 **Supporting the Conduct Committee**⁵⁵ - the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Conduct Committee⁵⁶.
- ⁵⁷4.4 **Proper Officer for Access to Information** - the Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 4.5 **Advising whether Executive Decisions are within the Budget and Policy Framework** – the Monitoring Officer will advise whether executive decisions are in accordance with the budget and policy framework and (after consultation with the Chief Finance Officer) the budgetary framework.
- 4.6 **Providing Advice** - the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and staff.

⁵⁵ Amendment approved 26th July 2012

⁵⁶ Amendment approved 26th July 2012

⁵⁷ Amendment approved 26th July 2012

- 4.7 **Restrictions on Post** - the Monitoring Officer may not be the Chief Finance Officer or the Head of Paid Service.
- 4.8 **Supporting Corporate Management** - the Monitoring Officer supports the corporate management of the authority, in particular giving professional advice to any member of staff at any time on any functions of the post.
- 4.9 **Whistleblowing** - the Monitoring Officer will receive and investigate any allegations by a member of staff of any unlawfulness and unfairness by the Council or its staff.

5. **FUNCTIONS OF THE CHIEF FINANCE OFFICER**

- 5.1 **Ensuring Lawfulness and Financial Prudence of Decision Making** – after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Cabinet in relation to an executive function and the Council’s external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 5.2 **Administration of Financial Affairs** – the Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 5.3 **Contributing to Corporate Management** – the Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 5.4 **Providing Advice** – the Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- 5.5 **Give Financial Information** – the Finance Officer will provide financial information to the media, councillors, members of the public and the community.

6. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER

6.1 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

7. CONDUCT

7.1 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

8. EMPLOYMENT

8.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

ARTICLE 13 – DECISION MAKING

1. RESPONSIBILITY FOR DECISION MAKING

- 1.1 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

2. PRINCIPLES OF DECISION MAKING

- 2.1 All decisions of the Council will be made in accordance with the following principles:-
- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
 - (b) due consultation and the taking of professional advice from officers including the Head Of Paid Service, the Monitoring Officer and the Chief Finance Officer whenever they choose or are requested to offer such advice;
 - (c) respect for human rights;
 - (d) a presumption in favour of openness and transparency and the spirit of the Freedom of Information Act 2000;
 - (e) clarity of aims and desired outcomes;
 - (f) the consideration of alternative options; and
 - (g) an explanation of the reasons for the decision.

3. TYPES OF DECISION

3.1 Decisions Reserved to Full Council

Decisions relating to the functions listed in Paragraph 2 of Article 4 will be made by the full Council and not delegated.

3.2 Key Decisions

- (a) A “key decision” means an executive decision taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or an officer or under joint arrangements which if implemented would –
 - to result in the local authority incurring expenditure which is, or the making of savings which are, in

excess of £100,000⁵⁸ (excluding in respect of land or property matters detailed below) either on its own or in partnership with other organisations; or ,

- require the acquisition or disposal of an interest in any land or property with a value in excess of £250,000.00; or,
- to be significant in terms of its effects on communities living or working in an area of the District comprising two or more wards.

The decision to enter into a contract or other arrangement shall not be treated as a Key Decision insofar as the purpose of the contract or arrangement is to fulfil the policy intention of a previously made Key Decision, implement an explicit policy within the approved Budget or Policy Framework, implement a capital project named in the approved capital programme or provide for the continuation of an established policy or service standard.⁵⁹

- (b) In determining the meaning of “significant”, regard shall be had to any guidance for the time being issued by the Secretary of State.
- (c) The decision taker shall inform the Chief Executive and Chief Finance Officer⁶⁰ of all decisions (including those with a financial value below £100,000⁶¹) about which he/she has any doubt as to whether the decision may or may not be significant for the purposes of this paragraph and the Chief Executive in consultation with the Leader⁶² may determine the decision as a key decision.
- (d) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

4. DECISION MAKING BY THE FULL COUNCIL

- 4.1 Subject to paragraph 8 of this Article, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter and which should also be read in conjunction with the Virtual Meetings Procedure Rules whilst in force.

⁵⁸ Amendment approved 25th February 2010

⁵⁹ Amendment approved 16th December 2010

⁶⁰ Amendment approved 25th February 2010

⁶¹ Amendment approved 25th February 2010

⁶² Amendment approved 25th February 2010

5. **DECISION MAKING BY THE CABINET**

5.1 Subject to paragraph 8 of this Article, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter and which should also be read in conjunction with the Virtual Meetings Procedure Rules whilst they remain in force.

6. **DECISION MAKING BY THE OVERVIEW AND SCRUTINY PANEL**

6.1 The Overview and Scrutiny Panel will follow the Overview and Scrutiny Procedure Rules set out in part 4 of this Constitution when considering any matter and which should also be read in conjunction with the Virtual Meetings Procedures Rules whilst they remain in force.

7. **DECISION MAKING BY OTHER COMMITTEES AND PANELS ESTABLISHED BY THE COUNCIL**

7.1 Subject to paragraph 8 of this Article, other Council committees and panels will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as applied to them and which should also be read in conjunction with the Virtual Meetings Procedure Rules whilst they remain in force.

8. **DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

8.1 The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights. The Virtual Meetings Procedure Rules will also be applicable whilst they remain in force.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

1. FINANCIAL MANAGEMENT

1.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

2. CONTRACTS

2.1 Every contract made by the Council will comply with the Code of Procurement set out in Part 4 of this Constitution.

3. LEGAL PROCEEDINGS

3.1 The Monitoring Officer⁶³ is authorised to institute, defend or participate in any legal proceedings in any case whether such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

4. COMMON SEAL OF THE COUNCIL⁶⁴

4.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer

4.2 The Seal shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of the Cabinet, committee or panel to which the Council have delegated their powers in this behalf, or by a decision of a Cabinet member or an officer to which the Council, Cabinet, committee or panel similarly have delegated their powers. A decision will be a sufficient authority for sealing any document necessary to give effect to the decision.

4.3 The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The Seal shall be attested by an Officer authorised by the Monitoring Officer. A record of every document to which the Common Seal has been attached shall be made and consecutively numbered in a book to be provided for that purpose and each entry duly attested. The book shall be open for inspection by every member of the Council.

⁶³ Amendment approved 26th July 2012

⁶⁴ Amendment approved 25th September 2008

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

1. DUTY TO MONITOR AND REVIEW THE CONSTITUTION

- 1.1 The Monitoring Officer, in consultation with the Chief Executive⁶⁵ and Chief Finance Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.2 The Leader may from time to time request that a committee, portfolio holder or Member may review the Constitution (or part of the Constitution) and make appropriate recommendations.⁶⁶

2. PROTOCOL FOR MONITORING AND REVIEW OF CONSTITUTION BY MONITORING OFFICER

- 2.1 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

To establish whether this is necessary the Monitoring Officer will on a regular basis⁶⁷ present a report to Cabinet seeking its recommendations to full Council for changes to the Constitution.

3. CHANGES TO THE CONSTITUTION

- 3.1 **Approval** – changes to the Constitution will only be approved by the Council after consideration of the proposals by Cabinet and any report on behalf of an Overview and Scrutiny Panel. Changes to the Members Scheme of Allowances will only be approved after consideration and proposals from the Independent Remuneration Panel. .
- 3.2 **Change from a Leader and Cabinet form of Executive to another arrangement, or Vice-Versa** – the Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

⁶⁵ Amendment approved 25th February 2010

⁶⁶ Amendment approved 25th February 2010

⁶⁷ Amendment approved 25th February 2010

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

1. SUSPENSION OF THE CONSTITUTION

- 1.1 **Limit to Suspension** - the Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.
- 1.2 **Procedure to Suspend** – a motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- 1.3 **Rules Capable of Suspension** – the following Rules may be suspended in accordance with this Article namely all the Council Procedure Rules in Part 4 of this Constitution and they shall be so suspended to the extent it is necessary to give effect to the Virtual Meetings Procedure Rules whilst these remain in force.

2. INTERPRETATION

- 2.1 The ruling of the Chairman of the Council, after consultation with the Chief Executive or his/her nominee, as to the construction or application of this Constitution or as to any proceedings of the Council should not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

3. PUBLICATION

- 3.1 Each member of the Council will receive a printed copy of this Constitution upon delivery of that individual's declaration of acceptance of office on the member first being elected to the Council.
- 3.2 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations including in electronic form on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- 3.3 The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.

SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS

The following parts of this Constitution constitute the executive arrangements:-

- (i) Article 6 (Overview and Scrutiny Panel) and the Overview and Scrutiny Procedure Rules;
- (ii) Article 7 (the Cabinet) and the Cabinet Procedure Rules;
- (iii) Article 11 (Joint Arrangements) where joint arrangements have been made and functions delegated as appropriate by the Cabinet;
- (iv) Article 13 (Decision Making) and the Access to Information Procedure Rules; and
- (v) Part 3 (Responsibility for Functions).

PART 3

RESPONSIBILITY FOR FUNCTIONS

RESPONSIBILITY FOR FUNCTIONS

INTRODUCTION

The Local Government Act 2000 and regulations made under the Act distribute responsibility for the Council's functions between the full Council and the Executive (Cabinet). The law allows the full Council to decide whether some functions (known as "local choice functions") should be exercised by the full Council, the Cabinet or another Council body.

The volume of the Council's business makes it impracticable for the full Council to make every decision that lies within its remit. The full Council has, therefore, delegated certain of its functions to other "Council bodies" which are known as 'Panels' and 'Committees'. Under the law, the full Council and the Cabinet may also delegate powers to officers to make decisions that they could make. The distribution of these powers to officers is set out in the "Scheme" of Delegation to Officers. Individual members of the Cabinet (Portfolio Holders) may also make decisions that could be made by the Cabinet.

This part of the Constitution describes the powers which may be exercised by the full Council, the Cabinet, other Council bodies and Portfolio Holders and sets out the scheme of delegation to officers.

Table 1	Local Choice Functions Council
Table 2	Responsibility for Functions
Table 3	Responsibility for Executive Functions
Table 4	Functions Delegated to Officers
Table 5	Functions Delegated to Portfolio Holders

DEFINITIONS OF MEMBERSHIPS¹

The following table defines the membership of the various decision making bodies used in Table 1 and Table 2 [and should be read in conjunction with the Virtual Meetings Procedure Rules whilst they remain in force.](#)

Decision Making Body	Membership
Council	All 39 members of the Council
Cabinet	The Leader and up to 9 further members appointed by the Leader
Overview and Scrutiny Panels	Up to 12 ² members of the Council (none of which may be part of the Cabinet) for each panel defined in Table 1 of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution

¹ Amendment approved 25th February 2010

² Amendment approved 19th May 2011

Decision Making Body	Membership
	<p>Six additional substitute members to be appointed.³</p> <p>Each panel will have one Chairman and one Vice Chairman.</p>
Planning Committee	<p>Up to 12⁴ members of the Council. No more than three of which can be members of the Cabinet.</p> <p>The committee will have 1 Chairman and 1 Vice Chairman none of which can be members of the Cabinet.</p> <p>Each Political Group may appoint up to 4 substitute members of Planning Committee who shall be subject to the rules of substitute members, and shall be required to abide by the training requirements for the Planning Committee.⁵</p> <p>A new member appointed to Planning Committee must not take part in or vote on any decision made by Planning Committee until they have attended at least one internal and one external training session on planning related topics.</p> <p>Existing members of Planning Committee who take part in or vote on any decision made by Planning Committee should attend at least one internal and one external training session on planning related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful.</p>
Licensing Committee	<p>Up to 12⁶ members of the Council. Power is given to the committee to appoint panels of 3 to determine individual cases.</p> <p>Six additional substitute members to be appointed.⁷</p>

³ Amendment approved 18th July 2019

⁴ Amendment approved 18th July 2019

⁵ Amendment approved 19th May 2011

⁶ Amendment approved 3rd November 2011

⁷ Amendment approved 18th July 2019

Decision Making Body	Membership
	<p>A new member appointed to the Licensing Committee must not take part in or vote on any decision made by Licensing Committee until they have attended at least one internal and one external training session on Licensing related topics.</p> <p>Existing members of Licensing Committee who take part in or vote on any decision made by Licensing Committee (or a panel) should attend at least one internal and one external training session on Licensing related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful.</p>
Conduct Committee	<p>Up to 5 members of the Council.</p> <p>The Conduct Committee shall be advised by the Independent Person appointed in accordance with section 28 of the Localism Act 2011.</p> <p>The committee may appoint up to two non voting members who are Town or Parish Councillors.⁸</p> <p>Three additional substitute members to be appointed.⁹</p>
Staff Committee	<p>8 members of the Council to be formed from:</p> <ul style="list-style-type: none"> • Up to¹⁰ 3 members of Cabinet, one of which is to be the portfolio holder with responsibility for Finance. • Up to¹¹ 3 members of any Overview and Scrutiny panel • 2 or more¹² Backbench members <p>Four additional substitute members to be appointed.¹³</p> <p>The Chairman may be a member of Cabinet.</p>
Appointments Panel	<p>Up to 7 members and not less than 3 nominated by the Leader to reflect political proportionality.</p>

⁸ Amendment approved 26th July 2012

⁹ Amendment approved 18th July 2019

¹⁰ Amendment approved 19th May 2011

¹¹ Amendment approved 19th May 2011

¹² Amendment approved 19th May 2011

¹³ Amendment approved 18th July 2019

Decision Making Body	Membership
	Three additional substitute members to be appointed. ¹⁴
Corporate Governance Committee	<p>Up to 11¹⁵ members of the Council to be formed from:</p> <ul style="list-style-type: none"> • Up to 3 members of Cabinet not including the portfolio holder responsible for finance • Up to 3¹⁶ members drawn from any Overview and Scrutiny panel • 5 or more¹⁷ Backbench members <p>Five additional substitute members to be appointed.¹⁸</p> <p>The Chairman of the committee may be a member of the Cabinet.</p>

¹⁴ Amendment approved 18th July 2019

¹⁵ Amendment approved 23rd May 2019

¹⁶ Amendment approved 23rd May 2019

¹⁷ Amendment approved 23rd May 2019

¹⁸ Amendment approved 18th July 2019

TABLE 1 - LOCAL CHOICE FUNCTIONS¹⁹

Function	Decision-Making Body (Memberships defined in table above)	Delegation of Functions
Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The conduct of Best Value Reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999	Overview and Scrutiny Panel reporting findings to Council for decision	As defined in Tables 4 and 5 of this Part of the Constitution
Any function relating to contaminated land: (i) approval of contaminated land strategy (ii) preparation of draft contaminated land strategy (iii) all other functions relating to contaminated land	Cabinet Cabinet Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution As defined in Tables 4 and 5 of this Part of the Constitution As defined in Tables 4 and 5 of this Part of the Constitution
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The service of an abatement notice in respect of a statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution

¹⁹ Amendment to table approved 25th September 2008 and 25th February 2010

Function	Decision-Making Body (Memberships defined in table above)	Delegation of Functions
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution`
The inspection of the authority's area to detect any statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The investigation of any complaint as to the existence of a statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The obtaining of particulars of a person's interest in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: (i) in so far as the information is required in connection with a function of the Planning Committee	Planning Committee	As defined in Tables 4 and 5 of this Part of the Constitution.
(ii) in so far as the information is required in connection with a function of the Licensing Committee (iii) in so far as the information is required in connection with a function of the Cabinet	Licensing Committee Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution As defined in Tables 4 and 5 of this Part of the Constitution
The making of agreements for the execution of highways work	Planning Committee	As defined in Tables 4 and 5 of this Part of the Constitution

TABLE 2 - RESPONSIBILITY FOR COUNCIL FUNCTIONS²⁰

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Council	Corporate Asset Management Plan	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Budget	As defined in Tables 4 and 5 of this Part of the Constitution
	Medium Term Financial Strategy	
Council	Cultural Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Economic Development Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Council	The Housing Strategy²¹	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Waste Management Plan	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Corporate Plan	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Development Plan Documents (DPDs)²²	As defined in Tables 4 and 5 of this Part of the Constitution

²⁰ Amendment to Table 2 approved 21 December 2006 and 11th May 2017

²¹ Amendment approved 26th July 2012

²² Amendment Approved 14th December 2017

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Council	Making of Neighbourhood Plans and Neighbourhood Development Orders²³	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Crime and Disorder Reduction Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Elections and Electoral Registration	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Health and Safety Functions relating to Health and Safety under any “relevant statutory provisions” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer	As defined in Tables 4 and 5 of this Part of the Constitution.
Planning Committee	Planning and Conservation Functions relating to town and country planning, conservation and listed buildings and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations)	As defined in Tables 4 and 5 of this Part of the Constitution
	Highways use and regulation The exercise of powers relating to the regulation and the use of highways as set out in Schedule 1 to the Functions Regulations	As defined in Tables 4 and 5 of this Part of the Constitution

²³ Amendment approved 14th December 2017

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
	<p>Trees and Hedgerows</p> <p>The exercise of powers relating to the preservation of trees and protection of important hedgerows as set out in Schedule 1 to the Functions Regulations</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
	<p>Brownfield Register (and other Registers)</p> <p>To undertake the functions of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), Section 14A (Register of Land), including preparation of a Brownfield Land Register as required by The Town and Country Planning (Brownfield Land Register) Regulations 2017.²⁴</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
	<p>Rights of Way²⁵</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
<p>Licensing Committee</p>	<p>Licensing Act 2003</p> <p>To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 with the exception of the Statement of Licensing Policy which is reserved to Council</p> <p>Taxi, gaming, entertainment, food and miscellaneous licensing</p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p> <p>As defined in Tables 4 and 5 of this Part of the Constitution</p>

²⁴ Amendment approved 14th December 2017

²⁵ Amendment approved 14th December 2017

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Conduct Committee ²⁶	<p>The promotion and maintenance of high standards and conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Code of Conduct for Members</p> <p>To determine any complaints of a breach of The Members' Code of Conduct via the Sub-Committee Hearing Panel ²⁷</p>	As defined in Tables 4 and 5 of this Part of the Constitution
	<p>Town/Parish Councils</p> <p>The promotion and maintenance of high standards of conduct within the Town and Parish Councils within Fenland and the determination of complaints made against these members in pursuance to the Code of Conduct.²⁸</p>	As defined in Tables 4 and 5 of this Part of the Constitution

²⁶ Amendment approved 26th July 2012

²⁷ Amendment approved 18 September 2019

²⁸ Amendment approved 26th July 2012

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Staff Committee	<p>To receive reports from the Head of Paid Service and/or the Chief Finance Officer²⁹ on strategic employment policies, ie those employment policies immediately and directly affecting all employees and which incurs an additional cost to the service area in question.</p> <p>In collaboration with the Staff Side group to promote effective communications and consultation between the Council and its employees on general personal matters</p> <p>Exercise discretion allowed under the local government pension scheme, including the award of discretionary payments to employees</p>	As defined in Tables 4 and 5 of this Part of the Constitution

²⁹ Amendment approved 26th July 2012

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Appointments Panel	<p>To appoint or dismiss the Head of Paid Service³⁰ Chief Officers and Directors</p> <p>Note: The appointment of the Chief Executive³¹ must be confirmed by the full Council</p> <p>To take disciplinary action against the Chief Executive, and hear disciplinary appeals made by the³² Chief Officers, the Monitoring Officer (and Deputy) and Chief Finance Officer (and Deputy) in accordance with the relevant provisions</p> <p>To consider and determine the terms and conditions of service of the Chief Executive and other employment related issues as they apply to the Chief Executive</p> <p>To consider any grievance submitted by the Chief Executive in accordance with the relevant provisions.</p>	As defined in Tables 4 and 5 of this Part of the Constitution
Overview and Scrutiny Panel	Overview and Scrutiny functions under the Local Government Act 2000 as amended ³³	As defined in Tables 4 and 5 of this Part of the Constitution
Corporate Governance Committee	Functions relating to audit, the regulatory financial framework and accounting policies	As defined in Tables 4 and 5 of the Part of the Constitution

³⁰ Amendment approved 26th July 2012

³¹ Amendment approved 25th February 2010

³² Amendment approved 25th February 2010 and 26th July 2012

³³ Amendment approved 8th May 2008

TABLE 3 - RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Who is responsible?	Membership	Functions	Onward Limit of Delegations
Cabinet	Up to 10 members of the Council	All functions of the Council which are not the responsibility of any other part of the Council as defined in this Constitution	As defined in Tables 4 and 5 of this Part of the Constitution
Leader	The member so appointed by the Council	The creation of portfolios of related functions and appointment of members of the Cabinet to portfolios	
Portfolio Holders	See Appendix	Responsible for functions delegated to Portfolio Holders by the Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution

APPENDIX**FENLAND DISTRICT COUNCIL
CABINET AND PORTFOLIOS³⁴**

Councillor Chris Boden - Leader	Finance Cambridge and Peterborough Combined Authority ³⁵
Councillor Jan French	Deputy Leader of the Council
Councillor Ian Benney	Economic Growth
Councillor Sam Clark	Social Housing and Leisure
Councillor Susan Wallwork	Communities
Councillor Sam Hoy	Housing
Councillor Dee Laws	Planning
Councillor Peter Murphy	Environment
Councillor Chris Seaton	Social Mobility and Heritage
Councillor Steve Tierney	Transformation and Communication

³⁴ Amendment made 23rd May 2019

³⁵ Amendment approved 17 May 2018

TABLE 4¹**FUNCTIONS DELEGATED TO OFFICERS****INTRODUCTION**

This scheme sets out the functions of the Council and the Cabinet which are delegated to Officers. Such delegated powers must be exercised in accordance with the conditions specified in paragraphs 1-3 below. The scheme must be read in conjunction with the Financial Rules and Scheme of Financial Delegation.

1. This scheme does not delegate to Officers:
 - a. Any matter reserved to full Council
 - b. Any matter which by law may not be delegated to an Officer.
2. Delegated powers must be exercised in accordance with the law, the rules, procedures, codes and protocols contained in the Council's Constitution and Council policy.
3. To the extent that it is permitted by law Officers have the power to authorise all or any of their delegated functions to other Officers either fully or under their general supervision and control. Such authorisation should be recorded in writing and a copy provided to the Monitoring Officer setting out:
 1. the name(s) of the officers who may exercise the power;
 2. the power that may be exercised;
 3. any limitations on the exercise of the power.

CHIEF EXECUTIVE²

1. To act as Head of Paid Service under and for the purposes of section 4 of the Local Government and Housing Act 1989
2. To determine the terms and conditions of service of the Deputy Chief Executive, Chief Officers and Directors.
3. To be the Returning Officer and to appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.³
- 3A To be the Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.⁴

¹ Amended version approved 25th September 2008

² Amendment approved 11th May 2017

³ Amendment approved 29th July 2010

⁴ Amendment approved 26th July 2012

4. To undertake the functions of the Council in relation to elections.
5. To have delegated authority to affect immediate changes to membership of committees at the request of political groups within the allocations set at Council⁵, such changes to be reported to council at its next meeting for ratification.
6. In cases of urgency to have a general power, after consultation with the member holding the appropriate portfolio in Cabinet, or the Chairman of the relevant committee as the case may be, to deal with any matter not delegated to any other officer by statute or other legislation on which the Chief Executive considers to require a decision before the next meeting of the appropriate body within the Council.⁶

CHIEF FINANCE OFFICER

7. To act as Chief Financial Officer under s114 of the Local Government Finance Act 1988 and s151 of the Local Government Act 1972
8. To be responsible for, and do anything required for the proper administration of the financial affairs of the Council
9. To invest the funds of the Council in line with the approved Treasury Management Strategy.⁷
10. To make arrangements for the internal audit of the Council
11. To carry out street numbering and naming

In relation to Council Tax, Non-Domestic Rates, Community Charge, Housing Advances, Benefit Overpayment, Sundry Debtors and Miscellaneous Income, Housing and Council Tax Benefit

12. To collect and recover Council Tax including determining the liability for the tax, benefits and discounts available. To enter into agreements regarding payment, to make any necessary adjustments to charges, to impose penalties, to request information and institute legal proceedings in the case of non-disclosure of information.
13. To administer the Housing Benefit and Council Tax Benefit scheme on behalf of the Council and to determine whether benefit payments should be made to a landlord.
14. To determine and administer applications under the Discretionary Housing Payment Scheme.

⁵ Amendment approved 13th May 2010.

⁶ Amendment approved 17th May 2018

⁷ Amendment approved 13th May 2010.

15. To authorise the prosecution for fraudulent claims for Housing and Council Tax Benefit and issue formal cautions and administrative penalties.
16. To appoint and authorised officers with powers to enter on to land and premises to secure the payment of sums due to the Council.
17. To recover debts due to the Council by civil action.
18. To institute, appear or authorise appropriate officers to appear on behalf of the Council in civil or criminal proceedings.
19. To write down debts in cases of bankruptcy/liquidation and to write off debts that are irrecoverable or uneconomic to recover up to the figures contained in the Financial Rules and Scheme of Financial Delegation in consultation with the Finance Portfolio Holder.⁸
20. To appoint Bailiffs or refer debts to bailiff or debt collection agencies.
21. To determine whether benefit overpayments are recoverable.
22. To authorise Government returns and subsidy claims.
23. To enter into joint working arrangements with external agencies.
24. To attend Valuation Tribunal hearings or to nominate an appropriate officer to present the Council's case.
25. To determine concurrent functions grants.
26. To approve fees and charges unless part of the annual budget setting in consultation with the appropriate Corporate Director and Finance Portfolio Holder.⁹
27. [Deleted]¹⁰

In relation to Non-Domestic Rates.

28. To conduct the annual review of the Rural Settlement List.
29. To determine claims for relief

In relation to the billing, collection, recovery of the other income

30. To action changes of interest rates on housing advances.

⁸ Amendment approved 13th May 2010.

⁹ Amendment approved 13th May 2010.

¹⁰ Amendment approved 13th May 2010.

31. To institute possession proceedings in the County Court for the recovery of housing advance arrears.
32. To appoint debt recovery agents.

In relation to the administration of Housing and Council Tax Benefits

33. To determine claims, conduct reviews, administer discretionary housing payments, review decisions, issue formal cautions in administrative, initiate prosecutions and respond to appeals. To appear at Appeal Tribunal Hearings, to serve any relevant notices. To issue requests for rent or such determination and re-determinations.
34. To appoint authorised officers with powers to enter business premises, make enquiries and interview persons.
35. To determine whether benefit overpayments are recoverable and, if so, from whom.
36. To determine if benefit payments should be made to landlords.
37. To authorise Government returns and subsidy claims.
38. To agree Service Level Agreements with benefit agency, rent officer and other external agencies.
39. To appoint and train officers to verify documents comply with the document verification framework and to represent the Council at liaison meetings and to enter into joint working arrangements with the benefit agency.
40. To determine concurrent functions grants.
41. To make any financial transaction including the borrowing and lending of money in line with the member approved Treasury Management Strategy.¹¹
42. To determine applications by staff for car loans under the Assisted Car Purchase Scheme.
43. To effect adequate insurance cover for the Council.
44. To authorise payments to employees for loss or damage to personal property up to a maximum of £500 for any one claim

¹¹ Amendment approved 13th May 2010.

MONITORING OFFICER

45. To act as Monitoring Officer pursuant to s5 of the Local Government and Housing Act 1989
46. To act as the principle point of contact for the Conduct Committee and to undertake case management and investigations on behalf of the Conduct Committee in respect of Members of the District Council and Towns and Parish Councils.¹²
- 47A. To be the Proper Officer for the receipt of written requests for Dispensations within the meaning of section 33(1) of the Localism Act in respect of Disclosable Pecuniary Interests.¹³
- 47B. To consider and grant requests for Dispensations from section 31 of the Localism Act 2011 in accordance with paragraph 1.3.2 of Article 9.¹⁴
47. To amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council (in respect of any non-executive function) or the Cabinet in respect of any executive function. Decisions made or action taken in relation to amendments, which are not subsequently ratified, by the Council or Cabinet remain lawful.
- 48A. To amend the Constitution to ensure individual names, positions and job titles are updated to reflect changes in the composition of Cabinet, Committees, and Officers. Such changes to be notified to all members.¹⁵
48. To add any legislation to the list in Appendix A at any time provided that such amendment is reported to the following Annual meeting of the Council.
49. To sign and serve any notice, order or document or act as proper officer under s234 of the Local Government Act 1972 where no other officer is currently appointed, and any notice in respect of any land owned by or in the process of being acquired by the Council
50. To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme.¹⁶

¹² Amendment approved 26th July 2012

¹³ Amendment approved 26th July 2012

¹⁴ Amendment approved 18th September 2019

¹⁵ Amendment approved 19th May 2011

¹⁶ Amendment approved 16th December 2010

51. Management of the Councils civic ceremonial functions and to determine applications to use and authorise the use of the Councils coat of arms
52. To authorise the institution, defence or withdrawal or settlement of any claims or legal proceedings, civil or criminal in relation to any function of the Council or to protect any interest of the Council.
53. To prosecute or defend or appear in any legal proceedings and authorise any officer so to do.
54. To grant postponement of charges and the release of protective registrations in relation to financial charges on land in favour of the Council to include the postponement of charges in relation to discounts granted under the Right to Buy
55. In consultation with the Executive Director (Finance) and the relevant Director in relation to the subject matter to authorise any amendments and deeds of variation or rectification necessary to ensure legal agreements accurately reflect corporate decisions
56. To respond to requests for information and apply any necessary exemptions with respect to the Data Protection Act, 1998, Freedom of Information Act 2000, Environmental Information Regulations 2005 and the reuse of Public Sector Information Regulations 2005, and to maintain any relevant registers, registrations or records.
57. To maintain the Council's Data Protection registration and act as Data Protection Officer.
58. Authorise the use, loan or reproduction of the Councils archive material

CORPORATE MANAGEMENT TEAM

Such delegations to apply to each member of Corporate Management Team (As defined in Part 7 of the Constitution) jointly and severally.

59. To manage and promote the services for which they are responsible and to enter into arrangements, or do anything else which is considered necessary or expedient in the management of the services and functions for which they are responsible including the acquisition of goods, works and services within budgets and policies approved by the Council and in compliance with the Financial Rules and Scheme of Financial Delegation and Code of Procurement
- 59a Monitoring Officer to make appointments to outside bodies in partnership with Group Leaders as vacancies arise throughout the year.¹⁷

¹⁷ Amendment approved 11th May 2017

60. Corporate Directors¹⁸ to appoint staff (including temporary and agency staff) and in consultation with the Corporate Director or the Head of Human Resources and Organisational Development, to determine the terms and conditions of employment of staff subject to the same being within the Council's General Fund Budget and consistent with Council Policy including:
- approval of overtime.
 - the payment of honoraria
 - the payment of post entry training (PET) and, in consultation with the relevant Corporate Director¹⁹, the waiving the re-payment of PET costs
 - to grant study leave
 - to grant unpaid and compassionate leave
 - to authorise payment of professional fees
 - to authorise attendance of officers at courses and conferences
- But not any employment matter reserved to full Council or the Appointments Panel.²⁰
61. To manage disciplinary matters.
62. In consultation with the Corporate Director or the Head of Human Resources and Organisational Development to declare an employee redundant and to determine applications for ill-health retirement subject to Council Policy and in line with relevant reports to the Staff Committee.²¹
63. To vire within revenue budget blocks and between capital schemes within approved limits.
64. To sign statutory notices and advertisements and to apply for planning permission and building regulations approval.
65. To exercise on behalf of the Council any right to enter on land conferred by statute in relation to matters within his/her jurisdiction for the purposes of the exercise of the Council's functions with regard to such matters.
66. To authorise the write-offs of stocks and stores deficiencies in accordance with the Financial Rules and Scheme of Financial Delegation.
67. To deal with the media in accordance with Council Policy.
68. To submit responses to consultation papers.

¹⁸ Amendment approved 26th July 2012

¹⁹ Amendment approved 26th July 2012

²⁰ Amendment approved 13th May 2010.

²¹ Amendment approved 13th May 2010.

69. To make ex gratia payments up to £500 to resolve justifiable complaints.
70. To approve expenditure from the consultation budget.
71. To incur reasonable expenses by way of hospitality.

CORPORATE DIRECTORS²²

Enforcement (General Provisions for all Corporate Directors²³):

72. Notwithstanding any specific powers detailed elsewhere to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of their functional area
73. To authorise officers to exercise rights of entry to land and premises

Each Director shall have the responsibility for those powers from the delegations listed below which relate to their functional areas.

Assets

74. To manage the Council's property and engineering assets. To undertake the Council's asset management functions.

Building Control

75. To exercise any power conferred on the Council under any of the acts or statutory instruments in Appendix A to the scheme of delegation in so far as each is relevant to the Council's Building Control function.
76. To act as the Council's Appointing Officer in respect of the Party Wall Act and to resolve disputes arising thereunder.
77. To act as a building authority.
78. To fix, vary, recover and advertise charges.
79. To authorise and serve building control enforcement notices irrespective of whether authorised work and work carried out in contravention of building regulations and other building control related legislation and to authorise officers to exercise rights of entry to land and premises.

²² Amendment approved 26th July 2012

²³ Amendment approved 26th July 2012

Bus Station

80. To operate and manage Wisbech Horsefair Bus Station including the authorisation of/or taking of enforcement action where appropriate.

Business Development

81. Generally to take action and operate all legislative and administrative procedures in pursuit of economic and industrial development of the district. Specifically, but not exclusively, to: -
1. Determine applications under Delegated Grant Schemes for Market Towns and Rural Development Initiative; to enter into leases and licences and assignments thereof in respect of the Council's commercial land and premises.
 2. To authorise expenditure on economic development initiatives in consultation with the portfolio holder.

Car Parking

82. To operate and manage off street car parks including the authorisation of/or taking of enforcement action where appropriate.²⁴

Caravan Sites

83. To issue licences in respect of private travellers sites and to monitor the same including the authorisation of/or taking of enforcement action where appropriate.

CCTV

84. To administer and operate the Council's CCTV system.

Cemeteries

85. To grant burial rights and approve the erection of memorials in cemeteries and burial grounds.

Conservation of Historic Buildings

86. Administrative and operational management of²⁵: -
- i) Fenland Historic Building Grant Scheme
 - ii) Landscape Conservation Scheme
87. To:
- (i) issue Urgent Works Notices in relation to Listed Buildings and properties in conservation areas

²⁴ Amendment approved 13th May 2010.

²⁵ Amendment approved 13th May 2010

- (ii) issue Repairs Notices in relation to Listed Buildings and properties in conservation areas
- (iii) in cases of urgency in consultation with the Chairman of the Planning Committee (unless such consultation would have a detrimental effect on this power) to:
 - a. authorise an application for an injunction
 - b. authorise the commencement of any legal proceedingssuch actions to be notified to the next scheduled meeting of the Planning Committee

Development Control

88. Having ensured that all statutory requirements and Council policies have been complied with and after considering all representations received; 23(i)

- (i) Determine all 'other' and 'minor' applications submitted under any of the Acts or Statutory Instruments set out in Appendix A to this Scheme unless:-

- Called-in by Member (the development must be within their ward area or adjacent ward area and the Member request has been granted by the Chairman of Planning).
- 6 or more unresolved written opinions from 6 or more separate sources are received from within the ward area or adjacent ward area which differ from the officer recommendation.
- Town/Parish views are in conflict with officer recommendation and the application is for more than 2 dwellings.

For 'other' and 'minor' applications which have either FDC or member involvement the following procedure will apply;

The Case officer will draft a report and make a recommendation which will be reviewed by the Head of Planning, the Chairman of Planning Committee and a legal officer.

If in the opinion of the Head of Planning and the Chairman of Planning Committee the recommendation is accepted, the case officers decision will be countersigned by the Head of Planning.

23(i) Amendment approved 18th September 2014

If in the opinion of the Head of Planning and the Chairman of Planning Committee there are wider issues to consider the matter will be placed on the Planning Committee agenda.

- (ii) Determine all 'major' applications submitted under any of the Acts or Statutory Instruments set out in Appendix A to this Scheme unless:-
 - FDC or Member involvement
 - Called-in by a Member
 - 6 or more written views from 6 or more separate sources are received which conflict with the officer recommendation
 - Town/Parish views are in conflict with officer recommendation
 - Statutory Consultee views are in conflict with officer recommendation
- (iii) determine all applications pursuant to conditions attached to permissions,
- (iv) determine all requests for minor amendments to permissions,
- (v) determine all applications for certificates of lawfulness,
- (vi) respond to all consultations from Cambridgeshire County Council regarding applications submitted to them as the relevant Planning Authority,
- (vii) determine all applications for works to trees and those submitted under the Hedgerow Regulations 1997,
- (viii) determine all prior notification applications and all subsequent detailed submissions applications,
- (ix) determine all requests for screening or scoping opinions under the relevant legislation,
- (x) determine all applications for Ancient Monument Consent,
- (xi) determine all applications for Hazardous Substances Consent,
- (xii) determine all queries relating to 'permitted development' i.e. is permission/approval/consent/notification required,
- (xiii) make and confirm Tree Preservation Orders unless any relevant objections are received.
- (xiv) Respond to applications for Goods Operators' Licences as appropriate,

- (xv) Respond to consultation regarding the erection or modification of overhead power lines and ancillary equipment,
- (xvi) Determine applications for Certificates of Appropriate Alternative Development,
- (xvii) To enter into legal agreements under Section 106 of the Town & Country Planning Act 1990.

Definitions for section:-

Major applications (Department for Communities and Local Government codes 1-5),

- 10 or more dwellings or site area of more than 0.5ha,
- All other land uses – involving floor space of more than 1,000 sq m or a site area of more than 1ha,

Minor applications (Department for Communities and Local Government codes 6-10),

- 1-9 dwellings
- All other land uses involving floor space of less than 1,000sqm or sites of less than 1ha,

Other applications (Department for Communities and Local Government codes 11-17)

- Changes of use (except where fall into major category)
- Householder developments (within the curtilage of a residential property except for changes of use and creation of additional dwellings),
- Advertisements,
- Listed Building consent to alter/extend
- Listed Building consent to demolish
- Conservation Area consents

FDC/Member involvement:-

- Landowner,
- Applicant
- Agent
- Staff member working in Development Service or in a closely associated Service

OVERALL PROVISOS TO SECTION 89

any Fenland District Council member can require any delegated application in Category (ii) above to be referred to the Planning Committee for consideration by notification in writing to the Head of Development within three weeks of registration date (such notification must provide planning reasons for requesting reference to Committee and these planning reasons must subsequently be incorporated in the

report to Committee). The scrutiny of the weekly list of applications circulated to members will facilitate this safeguard.

89. Planning Enforcement:

To:

- (i) issue Planning Contravention Notices;
- (ii) issue Requisitions for Information;
- (iii) authorise and issue Breach of Condition Notice proceedings;
- (iv) authorise and issue Waste Land Notices;
- (v) authorise and initiate Proceedings against Fly Posters;
- (vi) authorise and initiate Proceedings against Unauthorised Signs.
- (vii) issue Temporary Stop Notices
- (ix) issue Enforcement Notices
- (x) in cases of urgency in consultation with the Chairman of the Planning Committee (unless such consultation would have a detrimental effect on this power) to:
 - a. issue a Stop Notice
 - b. authorise an application for an injunction
 - c. authorise the commencement of any legal proceedings such actions to be notified to the next scheduled meeting of the Planning Committee
- (xi) issue notices requiring the Proper Maintenance of Land²⁶

89a. Brownfield Register

To prepare and publish sites in Part 1 of a Brownfield Land Register, as defined by The Town and Country Planning (Brownfield Land Register) Regulations 2017.²⁷

89b. To operate the Council's neighbourhood planning function (except for the 'making' (adoption) of such Orders and Plans) including, but not necessarily limited by, the following:

- The designation of neighbourhood areas and neighbourhood forums

²⁶ Amendment approved 29th July 2010

²⁷ Amendment approved 14th December 2017

- Providing comments on behalf of the Council to consultations on draft plans or orders
- Making decisions on behalf of the Council on whether a plan meets the basic conditions and should proceed to referendum, following the receipt of a report from the independent examiner and publishing this decision.²⁸

Food Safety Services, Health Services and Environmental Services

90. Generally to take action, to operate all legislative and administrative procedures including, but not limited to authorising any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instrument set out in Appendix A to this Scheme, (including the power to appoint or revoke the appointment of authorised officers) if and in so far as each is relevant to the Council's environment functions.
91. Generally to take action and operate all legislative and administrative procedures in relating to the licensing and regulation of premises and activities. To issue licences and certificates or effect registration under powers conferred by any of the Acts or Statutory Instruments listed in Appendix A to this scheme of delegation and to make representations in respect of applications.
92. To act as inspector and to appoint others to act as inspectors (including the termination of appointment of those inspectors) in accordance with any powers contained in any of the Acts of or Statutory Instruments listed in Appendix A to this scheme of delegation in relation to the Council's food safety, environmental and health functions.

Housing Functions

93. To allocate tenancies, set rents, approve disturbance payments, adaptations and alterations and consent to transfers and mutual exchanges and to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document and the determination of grants in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of the Council's housing function.
94. To certify Housing Corporation and Registered Social Landlords.
95. To administer and manage the Councils homelessness functions and the Housing Register

²⁸ Amendment approved 14th December 2017

Land Charges

96. To act as the Registrar of Local Land Charges

Land Drainage

97. To undertake and exercise the Council's land drainage functions, including the repair, maintenance and cleansing of Watercourses and culverts and the approval to culvert.

Land Ownership:

98. To approve terms for any lease or letting of land or property where the rent payable is not less than the open market rent for that property.
99. To authorise the renewal and termination of commercial leases protected by Part 2 of the Landlord and Tenant Act 1954
100. To authorise the commencement and settlement of rent reviews in line with the provisions of existing leases to which the Council is a party
101. To authorise licences to assign for any lease, grant any wayleave or easement, or to agree any change (including revocation) of any freehold or leasehold covenant where it is in the Councils interest to do so.
102. To authorise the freehold acquisition or disposal of any land up to the value of £100,000²⁹
103. To authorise the appropriation of land to any purpose provided that any statutory consultation has been complied with and in the absence of any representations

Licensing

104. To administer and decide on Licensing applications including those under the Licensing Act 2003 in accordance with the following;

Matters to be dealt with	Sub Committee	Officers
Application for a Personal Licence	If Police objection	If no objection made
Application for Personal licence with unspent convictions	All Cases	
Application for premises licence/club premise	If a relevant representation made	If no relevant representation made or

29 Amendment approved 13th May 2010.
25(i) Amendment approved 26th February 2015.

certificate		all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn
Application for provisional statement	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary premises licence/club premises certificate.	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Application for interim authorities	If police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
*Decision on whether a complaint is frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases

Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of minor variation application		All cases
Making a representation on behalf of the Licensing Authority		Corporate Director
Initiating a Review on behalf of the Licensing Authority		Corporate Director

*To determine whether a complaint is frivolous or vexatious the following procedure will apply:

The Licensing Manager will draft a report and make a recommendation which will be reviewed by the Corporate Director, the Chairman of Licensing and a Legal Officer.

If in the opinion of the Head of Service for Licensing and the Chairman of Licensing the recommendation is accepted, the Licensing Manager's decision will be countersigned by the Corporate Director and Chairman of Licensing.

If in the opinion of the Corporate Director and the Chairman of Licensing there are wider issues to consider the matter will be placed before a Licensing Committee Hearing.

105. To determine applications for licences to perform hypnotism entertainment.

106. Approval of applications for hackney carriages and private hire vehicle driver licences except those falling within the categories in paragraphs (i) to (v) below, when they will go to the Licensing Committee or panels thereof:-

- (i) Applications which disclose that the applicant has been convicted of an offence involving indecency or violence;
- (ii) Applications which disclose that the applicant has been convicted of an offence involving dishonesty or drugs;
- (iii) Applications which disclose that the applicant has been convicted of an offence under the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976;
- (iv) Applications which disclose that the applicant has been convicted of an offence relating to the driving or ownership of a motor vehicle and has more than six penalty points on his/her licence;
- (v) Applications which disclose that the applicant has committed a breach of, or failed to comply with, the terms of an existing or previous hackney carriage or private hire licence.

107. To approve applications for hackney carriage and private hire drivers licences that fall within any of the categories set out in paragraphs (i) to (v) of the preceding paragraph if in the opinion of the Monitoring Officer any offence by the applicant is so minor or irrelevant as to have no proper bearing on the determination of the application.
108. In relation to activities under the Gambling Act 2005 to:
1. Determine whether representations received in relation to applications are relevant;
 2. Undertake discussions and or negotiations with applicants and objectors to overcome objections where possible;
 3. In respect of applications that have generated no relevant objections or where representations have been withdrawn to grant:
 - i. a premises licence
 - ii. applications for a variation of a premises licence
 - iii. a provisional statement
 - iv. a club gaming / club machine permit
 - v. other permits where there are no more than two permits in alcohol licensed premises
 - vi. a temporary use notice
 4. Where there are no representations from the Gambling Commission to grant a transfer of a licence
 5. Where all relevant parties agree to attach or exclude a condition from a premises licence
 6. Revoke a premises licence for non payment of the annual fee in accordance with section 193 of the Gambling Act 2005 in consultation with the Chairman of the Licensing Committee and the Legal Services Manager
109. In relation to Street Collections authority to:
1. grant any application for a collection; or
 2. refuse an application for a collection where in their opinion having consulted with the Chairman of the Licensing Committee the proposed collection will materially overlap with another collection either in terms of the location of the areas to be visited or the dates on which the collection will be undertaken. Such determination to have regard to the nature of the respective collections and the likelihood of material interference
110. In relation to House to House Collections authority to: to:
1. grant any application for a collection; or
 2. refuse an application for a collection where in their opinion having consulted with the Chairman of the Licensing Committee the proposed collection:
 - a. will materially overlap with another collection either in terms of the location of the areas to be visited or the dates on which the collection will be undertaken. Such determination to have regard to the nature of the respective collections and the likelihood of material interference; and/or they are satisfied that:

- b. the total amount likely to be applied for charitable purposes as a result of the collection (including any amount already applied) is inadequate in proportion to the total value of the proceeds likely to be received (including any proceeds already received);
 - c. the promoter or a collector or any other person is likely to receive remuneration that is excessive in relation to the total amounts received;
 - d. the applicant is not a fit and proper person to hold a licence as he/she has been convicted in the UK or any of the offences specified in the House to House Collections Act 1939, or has been convicted outside of the UK of any offence involving fraud or dishonesty, or any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
3. revoke any licence where in their opinion and having consulted with the Chairman of the Licensing Committee the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted fails:
- a. to exercise due diligence to ensure that persons authorised to act as collectors for the purpose of the collection were fit and proper persons;
 - b. to secure compliance on the part of the persons so authorised with the provisions of the Regulations made under the Act;
 - c. to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised;
 - d. where the applicant or holder of the licence has refused or neglected to provide the licensing authority with such information as they may have reasonably been required to provide for the purpose of informing the licensing authority as to any of the matters specified in the foregoing paragraphs;
 - e. where any of the situations in 2 b to d inclusive occur following the grant of a licence.

Markets and Fairs

111. To operate and manage the Council's markets including
- 1. The granting of pitch licences
 - 2. The management and organisation of the markets and their activities
 - 3. Updating market regulations and codes of conduct in consultation with the relevant Portfolio Holder
 - 4. the authorisation of or the taking of enforcement action where appropriate.
112. To operate and manage fairs including the authorisation of or taking of enforcement action where appropriate

Port

113. The operation and administration of the Council's powers and duties as Harbour Authority including the authorisation and/or taking of enforcement action where appropriate.

114. To operate the Port Marine Safety Code.

Radio Communications

115. To purchase, maintain all radio communications equipment and to manage the radio communications system and to enforce legislation to operate radio communications systems.

Recycling

116. To set new rates for third party recycling credits.

Town Centres

117. To authorise and manage the provision/erection of Christmas lights/trees, equipment in the town centres by Town Council and other bodies.

Transport Services

118. To authorise and take enforcement action including the service of any notices, orders or other documents and administrative procedures in relation to the Council's transport functions.

119. To purchase all goods, vehicles, plant and equipment, parts and lubricants in accordance with the Financial Rules and Scheme of Financial Delegation and Code of Procurement;

120. To maintain the Council's fleet of vehicles, including lease cars, in accordance with the Construction and Use Regulations 1986;

121. To dispose of all used assets with regards to transport, plant and equipment owned by Fenland District Council in accordance with the Code of Procurement and Code of Financial Management;

122. To manage the annual inspection of all pressure vessels, lifting equipment and pumps that are owned by Fenland District Council and be responsible for the correct maintenance and repairs under the Transportable Pressure Receptacle Regulations 1989 and any other regulations associated with such equipment;

123. To suspend any employee from driving a Council vehicle if it is considered the driver is in contravention of any Act or is likely to cause an accident or injury to themselves or others.

124. To fulfil all responsibilities in relation to rights of way matters except where there are 5 or more unresolved objections.³⁰

³⁰ Amendment approved 14th December 2017

APPENDIX A³¹

The list below of legislation is not to be taken as exhaustive and shall be taken to include any amended, consequential, ancillary, subsidiary, consolidating Act, Statutory Instrument, Regulation or Order

Animals Act 1976
Animal Boarding Establishments Act 1963
Animal Health Act 1981
Approved Inspector Regulations 1995
Anti-Social Behaviour Act 2003
Betting, Gaming and Lotteries Act 1963
Breeding of Dogs Act 1973
Building Act 1984
Building (Local Authority Charges) Regulations 1998
Building Regulations 2000
Caravan Sites and Control of Development Act 1960
Carriage of Dangerous Goods by Road Act 1996
Carriage of Goods by Road Act 1965
Carriage by Air and Road Act 1979
Carriers Act 1830
Child Support, Pensions and Social Security Act 2000
Cinemas Act 1985
Civil Contingencies Act 2004
Civil Defence Act 1948
Civic Amenities Act 1967
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Construction and Use Regulations 1986
Control of Asbestos at Work Regulations 1987
Control of Pesticides Regulations 1986
Control of Pollution Act 1974
[Coronavirus Act 2020](#)
Crime and Disorder Act 1998
Criminal Law Act 1976
Criminal Law Act 1977
Criminal Attempt Act 1981
Criminal Justice and Immigration Act 2008³²
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Crop Residues (Burning) Regulations 1983
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Data Protection Act 1984
Dogs (Fouling of Land) Act 1996
Egg Products Regulations 1993

³¹ Amendment to Appendix A approved 21st December 2006 further amendments approved 20th December 2007 and 8th February 2008

³² Inserted 15th June 2009

Employment Act 1973
Environment Act 1995
Environmental Protection Act 1990
European Communities Act 1972
European Parliamentary Elections Act 1978.
Factories Act 1961
Food Premises (Registration) Regulations 1991
Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992.
Food Act 1984
Food Act 1990
Food Safety Act 1990
Food and Environmental Protection Act 1985
Freedom of Information Act 2000
Fresh Meat (Health and I) Regulations 1992
Fresh Meat, Poultry Meat (H,I&E)Regulations 1990
Game Act 1831
Gambling Act 2005
Gaming Act 1968
Gaming Act 2003
Goods Vehicles (Licensing of Operators) Act 1995
Guard Dogs Act 1975
Health Act 2006
Health and Safety at Work etc Act 1974
Health and Safety at Work Act (Enforcing Authority) Regulations 1989
Health and Safety at Work Act 1990
Health and Social Care Act 2008³³
Health Protection (Local Authority Powers) Regulations 2010³⁴
Health Protection (Part 2A Orders) Regulations 2010³⁵
Health Protection (Notification) Regulations 2010³⁶
Highways Act 1980
Highways Amendment Act 1986
Home Energy Efficiency Act 1995
Homelessness Act 2002
House to House Collections Act 1939
Housing Act 1985
Housing Act 1989
Housing Act 1996
Housing Act 2004
Housing Benefit (General Regulations) 1987
Housing Grants, Construction and Regeneration Act 1996
Housing (Homeless Persons) Act 1977
Hypnotism Act 1952
Insolvency Act 1986
Land Compensation Act 1973
Land Drainage Act 1976
Land Drainage Act 1991

³³ Inserted 15th June 2009

³⁴ Amendment approved 13th May 2010.

³⁵ Amendment approved 13th May 2010.

³⁶ Amendment approved 13th May 2010.

Late Night Refreshment Houses Act 1969
Licensing Act 1964
Licensing Act 2003
Local Authorities (Executive Arrangements) (Access to Information) Regulations (England) 2000
Local Government (Access to Information) Act 1985
Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Local Government and Housing Act 1989
Local Government and Public Involvement in Health Act 2007
Local Government Act 1972
Local Government Act 2000
Local Government Finance Act 1988
Local Government Finance Act 1992
Localism Act 2011³⁷
Lotteries and Amusements Act 1976
Milk and Dairies (General) Regulations 1959
Milk (Special Designation) Regulations 1989
Mobile Homes Act 1975
Mobile Homes Act 1983
National Assistance Act 1948
National Assistance (Amendment) Act 1951³⁸
Noise and Statutory Nuisance Act 1993
Noise Act 1996
Office, Shops and Railways Premises Act 1963
Party Wall (etc) Act 1996
Pesticides Act 1998
Pet Animals Act 1951
Planning and Compulsory Purchase Act 2004
Planning (Listed Buildings and Conservation Areas) Act 1990
Planning (Hazardous Substance) Act 1990
Police Act 1997
Police, Factories etc (Miscellaneous Provisions) Act 1916
Pollution, Prevention and Control Act 1999
Poultry Meat (Hygiene) Regulations 1976
Private Security Industry Act 2001
Prevention of Damage by Pests Act 1949
Protection from Eviction Act 1977
Public Health Act 1925
Public Health Act 1936
Public Health Act 1961
Public Health (Ships) Regulations 1979
Public Health (Control of Disease) Act 1984
Public Health Act 1907
Refuse Disposal (Amenity) Act 1978

³⁷ Amendment approved 26th July 2012

³⁸ Inserted 15th June 2009

Rent Agriculture Act 1976
Regulation of Investigatory Powers Act 2000
Representation of the People Act 1983
Representation of the People Act 2001
Riding Establishments Act 1964
Riding Establishments Act 1970
Road Safety Act 2006
Road Traffic Act 1974
Road Traffic (Drivers' Ages and Hours of Work) Act 1976
Road Traffic Act 1988
Road Traffic Act 1991
Road Traffic Amendment Act 1967
Road Traffic Regulation Act 1984
Road Traffic Reduction Act 1997
Road Traffic (New Driver) Act 1995
Scrap Metal Dealers Act 1964
Shops Act 1950
Slaughter of Poultry Act 1967
Social Security Act 1986
Social Security Administration Act 1992
Social Security Administration (Fraud) Act 1997
Special Waste Regulations 1996
Sunbeds (Regulation) Act 2010³⁹
Sunday Entertainments Act 1932
Sunday Trading Act 1994
Theatres Act 1968
Town and Country Planning Act 1990
Town and Country Planning (Listed Building and Conservation Areas) Act 1990
Town and Country Planning (General Development Procedure Order) 1995
Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999
Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000
Town and Country Planning (Inquiries Procedure) (England) Rules 2000
Town Improvement Clauses Act 1875
Town Police Clauses Act 1847
Transport Act 1968
Transport Act 1976
Transport Act 1980
Transport Act 1981
Transport Act 1982
Transportable Pressure Receptacle Regulations 1989
Vehicles (Crime) Act 2001
Vehicle Excise Registration Act 1994
Water Industry Act 1991
Wireless Telegraphs Act 1998
Zoo Licensing Act 1981

³⁹ Amendment Approved 19th May 2011

APPENDIX B

FENLAND DISTRICT COUNCIL

**RECORD OF AUTHORISATION
(To be copied to Monitoring Officer)**

1. Authority/Power to be authorised (including paragraph reference) from Scheme of Delegation

Paragraph in scheme
.....

2. Officer (title and name) authorising exercise of the power.

.....

Signature.....

Date.....

3. Officer (title and name) to whom power is authorised

.....

4. Details of any limits/condition imposed upon onward authorisation

.....

TABLE 5 - FUNCTIONS DELEGATED TO ALL PORTFOLIO HOLDERS⁴⁰

The following functions are delegated to portfolio holders, only to the extent to which they are outside of the specific functions delegated to officers in Table 4 of this document and the Codes of Financial Management and Procurement.

All Portfolio Holders

1. To monitor all Performance Indicators within their Portfolio responsibility.
2. To monitor delivery of those elements of the Corporate Plan within their responsibility.
3. To approve grant applications in accordance with adopted policy and existing budget.
4. Selection of tenderers for contracts within approved budgets.
5. To respond to consultation documents within portfolio responsibility.
6. To respond to petitions not presented to Council.
7. To approve the acquisition or disposal of freehold land up to £250,000
8. To approve any action within their functional area up to a value of £250,000.
9. All portfolio holders, including the Leader, have delegated authority to take executive decisions on behalf of the Council in circumstances where the matter is urgent. A decision will be urgent if any delay would seriously prejudice the Council's or the public interest. The request for a decision to be deemed urgent will be considered by the Chairman of the Overview and Scrutiny Panel (in accordance with Rules of Procedure 2 and 5) and the relevant member of the Corporate Management Team/Chief Executive who will take into account the reasons provided. The decision will only be taken if the Chairman of the Overview and Scrutiny Panel and the relevant member of the Corporate Management Team/Chief Executive agree that the decision is a matter of urgency. The decision will be recorded via a Cabinet Member Decision Notice and the public record of the decision will state:
 - (a) Why in the opinion of the decision making person and the relevant member of Corporate Management Team/Chief Executive, the decision is urgent; and

⁴⁰ Amendments to Table 5 approved 17 May 2007, and further amendments on 20th December 2007

(b) The consent of the Chairman of the Overview and Scrutiny Panel. In the absence of the Chairman of the Overview and Scrutiny Panel, Rules of Procedure 2 will apply.⁴¹

Finance Portfolio Holder

1. To authorise the writing-off of debts within approved limits.
2. To authorise the writing-off of stock within approved limits.

⁴¹ Amendment approved 19 July 2018

PART 4

RULES OF PROCEDURE

- 1 Council Procedure Rules (Standing Orders).
- 2 Access to Information Procedure Rules
- 3 Budget and Policy Framework Procedure Rules
- 4 Cabinet Procedure Rules
- 5 Overview and Scrutiny Procedure Rules
- 6 Financial Rules and Scheme of Financial
Delegation
- 7 Code of Procurement
- 8 Officer Employment Procedure Rules
- 9 Standards Committee Hearing Procedure Rules
- 10 Corporate Governance Committee Procedure
Rules

RULE 1 COUNCIL PROCEDURE RULES (STANDING ORDERS)

With effect from xxx these Standing Orders should be read alongside the Virtual Meetings Procedure Rules which will remain in force until 7th May 2021 unless otherwise revoked or extended. For the avoidance of doubt, where there is any inconsistency the Virtual Meetings Procedure Rules shall take precedence.

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

- (i) In a year when there is an ordinary election of councillors the annual meeting will take place within 21 days of the retirement of the outgoing councillors. This meeting will in addition to the ordinary business of the annual meeting:
 - (a) Elect the Leader of the Council
 - (b) Be notified by the Leader of the Council of their Cabinet, to include the names and portfolios and who has been appointed the Deputy Leader. ^{4 1(i)}

- (ii) In any other year, the annual meeting will take place in May and conduct the ordinary business of the annual meeting however, in the 2020/21 municipal year and in accordance with the The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020, the meeting shall be postponed until otherwise called by the Chairman.¹

- (iii) The Annual Meeting of 2020/21, when called, will be held virtually using Zoom conferencing facilities and, unless an item of business is confidential or exempt from publication will be broadcast to the press and public via YouTubeThe ordinary business of the annual meeting will be²:-
 - (a) receive apologies for absence
 - (b) elect a person to preside if the Chairman of the Council is not present (a member of Cabinet may not be appointed);
 - (c) elect the Chairman of the Council (a member of Cabinet may not be appointed);
 - (d) elect the Vice-Chairman of the Council;

¹ Amendment approved 16th December 2010

¹⁽ⁱ⁾ Amendment approved 24th July 2014

² Amendment approved 16th December 2010

- (e) approve the minutes of the last ordinary meeting or of any extraordinary or other meeting since then;
- (f) receive any announcements from the Chairman and/or Head of the Paid Service;
- (g) [Deleted]³
- (h) appoint at least one Overview and Scrutiny Panel, a Standards Committee and such other panels and committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (i) 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 Part 3 of this Constitution);
- (j) agree a programme of ordinary meetings of the Council for the year;
- (k) receive any declarations of interest from members;
- (l) receive questions from and provide answers to, Councillors in relation to matters which, in the opinion of the person presiding at the meeting, accord with the provisions of Procedural Rules 8.4 and 8.6 save in respect of the annual meeting held during 2020/21 where this item will be deferred to the next Ordinary Meeting;
- (m) receive reports from Cabinet members with portfolio holder responsibilities in accordance with Procedure Rule 8.2 save in respect of the annual meeting held during 2020/21 where this item will be deferred to the next Ordinary Meeting ;
- (n) consider recommendations from Cabinet, the Overview and Scrutiny Panel and committees such recommendations to be presented by the Chairman of those bodies or their nominated representative;
- (o) receive petitions requiring debate at Full Council submitted in accordance with the Councils Petition Scheme⁴, and public questions in accordance with Procedure Rule 9A⁵ save in respect of the annual meeting held during 2020/21 where this item will be deferred to the next Ordinary Meeting;

³ Amendment approved 16th December 2010

⁴ Amendment approved 23rd July 2015

⁴ Amendment approved 29th July 2010

⁵ Amendment approved 25th February 2010

- (p) consider motions save in respect of the annual meeting held during 2020/21 where this item will be deferred to the next Ordinary Meeting;
- (q) consider any business set out in the notice covering the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

1.2 Selection of Councillors on Committees and Panels

At the annual meeting, the Council will:-

- (a) decide which committees and panels should be established for the ensuing municipal year;
- (b) decide the terms of reference for those committees/panels;
- (c) decide the allocation of seats and position of Chairman and Vice Chairman⁶ to political groups in accordance with the political balance rules where appropriate;
- (d) receive notification⁷ of councillors to serve on each committee and panel and to serve as Chairman and Vice Chairman from the political groups⁸; and
- (e) appoint to those committees and panels except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

2. ORDINARY MEETINGS OF THE COUNCIL

2.1 Ordinary Council Meetings will be held virtually using Zoom conferencing facilities and, unless an item is confidential or exempt from publication, will be broadcast to the press and public via-YouTube. The business of the meeting will be as follows:

- (a) receive apologies for absence
- (b) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (c) approve the minutes of the last meeting and of any extraordinary or other meeting since then;

⁶ Amendment approved 25th February 2010

⁷ Amendment approved 25th February 2010

⁸ Amendment approved 25th February 2010

- (d) receive any announcements from the Chairman and/or the Head of Paid Service;
- (e) receive any declarations of interest from members;
- (f) receive questions from and provide answers to, Councillors in relation to matters which, in the opinion of the person presiding at the meeting, accord with the provisions of Procedural Rules 8.4 and 8.6;
- (g) receive reports from Cabinet members with portfolio holder responsibilities in accordance with Procedure Rule 8.2;
- (h) consider recommendations from Cabinet, the Overview and Scrutiny Panel and committees such recommendations to be presented by the Chairman of those bodies or their nominated representative;
- (i) receive petitions requiring debate at full Council submitted in accordance with the Council's Petition Scheme⁹, and public questions in accordance with Procedure Rule 9A¹⁰;
- (j) consider motions;
- (k) consider any other business specified in the notice covering the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

2.2 At ordinary meetings, the Council will only deal with business that is set out on the summons, unless the Chairman decides that a matter is urgent. If the Chairman decides that a matter is urgent he/she will announce at the beginning of the meeting after apologies have been announced that an extra item is to be placed before the Council and will explain why the matter is so urgent. The reasons will be recorded in the minutes of the meeting.

2.3 The order of business set out in paragraph 2.1 above and as amended by the Virtual Meetings Procedure Rules where applicable may be changed:

- (a) by the Chairman with the Council's permission or
- (b) by resolution passed by the Council. The motion will be put without discussion, and does not have to be in writing.

⁹ Amendment approved 29th July 2010

¹⁰ Amendment approved 25th February 2010

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:-

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; and
- (d) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of presenting the requisition.

3.2 Business

The summons to an extraordinary meeting of the Council shall set out the business to be considered thereat and no business other than that set out in the summons shall be considered at that meeting.

The meeting will take place in accordance with the Virtual Meetings Procedure Rules whilst they remain in force.

4. TIME AND PLACE OF MEETINGS

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

5. NOTICE OF AND SUMMONS TO MEETING

- 5.1 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. Where the meeting is to take place remotely, information as to how to join or view the meeting will also be provided.

5.2 At least five clear days before a meeting, the Chief Executive will send a summons to every member of the Council by such means as are appropriate including electronic delivery. 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. Where the meeting is to take place remotely, information as to how to join or view the meeting will also be provided.¹¹

6. CHAIRMAN OF MEETING

6.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Whenever the Chairman rises during a discussion or a debate a member then standing shall resume his/her seat and the Council shall be silent. Where these Rules apply to Cabinet, committee and panel meetings, references to the Chairman also include the Chairman of those bodies.

7. QUORUM

7.1 The quorum of a meeting of full Council will be one quarter of the whole number of members. If during any meeting— the number of members present falls below that sufficient for a quorum , the Chairman must adjourn the meeting. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Council. The same arrangements will apply if technical difficulties cause a remote meeting to become inquorate following all reasonable attempts to rectify the problem.

8. QUESTIONS BY MEMBERS

8.1 Every member of the Cabinet shall present a report to each ordinary meeting of the Council on matters of interest for which they have responsibility that have arisen since the last ordinary meeting of the Council.

8.2 Unless the meeting is taking place remotely a member of the Council may, without first giving notice, ask any Member of the Cabinet questions about any matter which falls within the portfolio of that Cabinet member. Where the meeting is taking place remotely, the Virtual Meetings Procedure Rules will apply and in order to be asked, questions must be presented in writing via the Chief Executive no later than the third working day before the date of the meeting.

¹¹ Amendment approved 29th July 2010

- 8.3 The Council will set aside a maximum of 60 minutes for members to put questions under Procedure Rule 8.2.
- 8.4 The Council will set aside a maximum of 20 minutes for the Leader of the main opposition group (or his/her nominated representative) to put questions to the Leader.
- 8.5 An answer under 8.2 and 8.4 above may take the form of:-
- (a) A direct oral answer;
 - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) where the reply cannot conveniently be given orally, a written answer circulated to all members of the Council always providing that where the reply to a question may reveal exempt or confidential information, the question can only be answered after the Council has decided whether to exclude the media and public from the meeting.

8.6 Written questions at full Council

A member of the Council who gives written notice, via the Chief Executive no later than the third working day before the date of the meeting (not including the day on which the notice is given or the day of the meeting) may ask the Chairman, a member of the Cabinet, or the Chairman of any committee, any question on any matter in relation to which the Council has powers or duties or which affects the district

- 8.8 The Chief Executive may allow any question asked under this Procedure Rule if:
- (a) the subject matter of the question relates to the responsibilities of the person of the person who is asked to reply to it; and
 - (b) the question touches clearly upon a matter over which the Council possesses a power or duty, or which affects substantially the interests of the people of the district.
- 8.9 Unless the Chairman decides otherwise, every permissible question shall be asked and answered without debate but any member who receives an oral answer may ask one supplementary question of the member who answered. The supplemental question must arise directly out of the original question or the reply and will be limited to 2 minutes.

9. PETITIONS¹²

9.1 In receiving a relevant Petition requiring a Full Debate at Council submitted under the Councils Petition Scheme the following provisions of this section will apply unless the meeting is taking place remotely.

9.2 The Petition Organiser will be given 5 minutes to present the petition to Members.

9.3 Members shall have a period of no more than 15 minutes (unless such time is extended by majority vote of the Council) to debate the petition in accordance with the rules of debate. Members will on the completion of the debate determine the outcome of the Petition in accordance with the Petitions Policy.

9.4 Where the meeting is taking place remotely, the provision to submit petitions with more than 500 signatures for debate will be suspended and will instead be responded to in accordance with the Virtual Meetings Procedure Rules.

9A. PUBLIC QUESTIONS¹³

9A.1 The conduct of public question time will be regulated by the Chairman of Council, having regard to the following guidelines. The Chairman's decision on the relevance of a question and on the method of dealing with any issue in connection with this procedure will be final.

9A.2 All questions:

- Must be clear and concise and be relevant to matters for which the Council has powers or duties.
- Should be limited to obtaining information or pressing for action.
- Should be capable of being adequately answered in three minutes.

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9A.3 Questions should not:

- Contain offensive expressions.
- Divulge, or require the answer to divulge, confidential or exempt information.
- Repeat questions previously asked at earlier meetings unless there has been a material change of circumstances

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9A.4 Questions may only be asked of the following:

- The Leader of Council.
- A portfolio holder (Cabinet member).

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¹² Amendment approved 29th July 2010

¹³ Amendment approved 25th February 2010

- The Chairman of a Scrutiny Committee.

9A.5 Members of the public wishing to ask a question at the Council meeting should provide the following details to the Council's Member Services team by no later than 12.00 noon, seven working days before the meeting:

- Name and address and contact details of the person asking the question.
- The name of an organisation if the question is being asked on their behalf.
- Details of the question to be asked.
- The name or position of the member of the Council to whom it is to be put.
- Brief information about how the subject of the question relates to the person asking the question (e.g. as a resident of the area, as a recipient of a service, the owner of a property affected by a proposal).

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Only one question may be asked by each member of the public or organisation and the question must relate to a single topic.

9A.6 The following process will apply at the meeting unless it is taking place remotely:

- The Chairman will invite questions to be asked at the meeting usually in the order in which they are received by Member Services.
- The Chairman of the Council will invite the member of the public to put his/her question from the floor of the Council Chamber using the microphone provided.
- The member of the public will then ask their question. Up to a maximum of three minutes will be allowed in which to ask the question.
- The named member will respond to the question which may take the form of:
 - a direct oral response of up to a maximum of two minutes;
 - where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - where the reply cannot conveniently be given orally, a written response circulated later to the questioner and made available to all members of Council and to the public.

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- After the response has been given, the questioner has up to a further minute in which to put one supplementary question or seek clarification of the response to the original question. The supplementary question must arise directly out of the original question or the reply and must not introduce new material.
- The recipient of the original question then has up to a further three minutes in which to reply to the supplementary question.
- The Chairman of the Council may, in exceptional circumstances, extend the time either for a question or its response. The timing of questions and responses is controlled by Member Services.
- 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, will be dealt with by a written response.
- No debate will be allowed on any question or the response.

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9A.7 Where the meeting is taking place remotely, in accordance with the Virtual Meetings Procedure Rules the Chairman will read out the question and the provision for a supplementary question will be removed.

10. MOTIONS ON NOTICE

10.1 Notice

Except for motions which can be moved without notice under Rule 11, notice of every motion signed by the member giving the notice must be delivered in writing or by electronic mail to the Chief Executive by not later than 5 pm at least 7 clear days before the date of the relevant meeting (that is not counting the day of delivery or the day of the meeting). These will be dated, numbered in the order in which they are received and entered into a book which shall be open to public inspection.

10.2 Motions set out in agenda

The Chief Executive shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the members giving such notice intimated in writing when giving it, that (s)he proposed to move it at some later meeting, or subsequently had withdrawn it in writing.

10.3 Scope

Motions must be about matters for which the Council has a responsibility or which directly affect the district and where the meeting is taking place remotely must be approved by the Monitoring Officer as being time critical

10.4 Failure to Move

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

10.5 Reference to Cabinet, Committee or Panel

- (a) Subject to 10.5(c) of these Rules, if the subject matter of any motion of which notice has been duly given is within the terms of reference of the Cabinet, the Overview and Scrutiny Panel, a committee or panel, it shall, upon being moved and seconded, stand referred without discussion to the Cabinet, Overview and Scrutiny Panel, committee or panel as the Council may determine, provided that such Cabinet, Overview and Scrutiny Panel, committee or panel shall report on the matter with recommendations to an ensuing meeting of the Council.
- (b) The member who has moved the motion and the seconder to the motion will be notified by the Chief Executive of the date and time of the meeting to which the motion has been referred and has the right to attend the meeting and speak to the motion.
- (c) The Chairman may, if (s)he considers it convenient and conducive to the dispatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

11. MOTIONS WITHOUT NOTICE

11.1 The following motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to Cabinet, a committee or panel or to an appropriate body or individual;

- (e) to appoint a committee or panel or member arising from an item on the summons for the meeting;
- (f) to receive, defer or refer back reports or adoption of recommendations of the Cabinet, the Overview and Scrutiny Panel, committees, panels or officers and any subsequent motions and amendments arising from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 19.3 of these Rules or to exclude them from the meeting under Rule 19.4 of these Rules;
- (p) to give the consent of the Council where its consent is required by this Constitution;
- (q) to invite a member to remain;
- (r) to record a vote in accordance with Rule 15.4 of these Rules;
- (s) in connection with voting on appointments in accordance with Rule 15.7 of these Rules; and
- (t) to extend the time limit for speeches.

12. RULES OF DEBATE

12.1 No Speeches until Motion 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.

12.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require the mover to put it in writing and hand it to him/her before it is discussed.

12.3 Secunder's Speech

When seconding a motion or amendment, a member may reserve his/her speech until later in the debate.

12.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order (save in respect of virtual meetings where these will be suspended). No speech may exceed 5 minutes in length without the consent of the Chairman.

12.5 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:-

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/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/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order (save in respect of virtual meetings where this will be suspended); and
- (f) by way of personal explanation (save in respect of virtual meetings where this will be suspended);
- (g) to move or speak on a procedural motion set out in paragraph (e), (f) or (g) of Rule 12.10 of these Rules.

12.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to a motion and will either be to:-

- (i) refer a subject of debate to the Cabinet, Overview and Scrutiny Panel, committee or panel for consideration or re-consideration;
- (ii) leave out words;
- (iii) leave out words and insert or add others; or
- (iv) insert or add words

as long as such omission, insertion or addition of words does not have the effect of negating the motion before the Council.

- (b) An amendment may not be discussed until it has been moved and seconded.
- (c) 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.
- (d) No member may move or second more than one amendment to a motion.
- (e) If an amendment is not carried, other amendments to the original motion may be moved.
- (f) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (g) If an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments or speeches of if there are none, put it to the vote. An exception is in the case of such an amendment as is referred to in Rule13.6(a)(i) of these Rules when no further amendment may be moved.
- (h) Where a meeting is taking place remotely Members are required to carefully consider the need for amendments in advance of the meeting and where possible should instead attempt to agree an alteration.

12.7 Alteration of Motion

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

- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

12.8 Withdrawal of Motion

A member may withdraw a motion which he/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.

12.9 Right of Reply

- (a) 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.
- (b) If an amendment is moved and seconded, 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.
- (c) The mover of the amendment has no right of reply to the debate on his/ her amendment.

12.10 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except -

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the vote be now taken;
- (e) to adjourn the meeting or debate;
- (f) to exclude the public and press in accordance with the Access to Information Rules;
- (g) to not hear further a member named under Rule 19.3 of these Rules or to exclude them from the meeting under Rule 19.4 of these Rules.

- (h) to suspend one or more of these Procedural Rules; and
- (i) to refer the subject of the debate back to Cabinet, Overview and Scrutiny Panel, committee or panel.

12.11 Closure Motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:-
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn the meeting or debate.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been discussed sufficiently, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been discussed sufficiently, the Chairman will put the procedural motion to the vote. If it is passed, the Chairman will give the mover of the original motion the right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been discussed sufficiently and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) If a motion to adjourn the meeting is seconded and the Chairman thinks that the remaining business before the meeting cannot be discussed sufficiently on that occasion, he/she shall put the adjournment motion to the vote without giving the mover to any motion under discussion his/her right of reply. If the motion for the adjournment is carried, the remaining business shall stand adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or otherwise, to the next ordinary meeting of the Council.

12.12 Point of Order

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

Where the meeting is taking place remotely this provision will be suspended.

12.13 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.

Where the meeting is taking place remotely this provision will be suspended.

13. Effect of Interests¹⁴

- 13.1 Any Member who has a Disclosable Pecuniary Interest (as defined in Part 2 of the Member Code of Conduct) in a matter under consideration and does not have a Dispensation shall leave the room containing the meeting for the duration of the consideration of the matter.¹⁵

Where the meeting is taking place remotely and a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member of co-opted member may not participate.

14. PREVIOUS DECISIONS AND MOTIONS

14.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of the Council within the previous six months cannot be moved unless a notice of motion is signed by at least 10 members of the Council.

¹⁴ Amendment approved 26th July 2012

¹⁵ Amendment approved 26th July 2012

15(i) Amendment approved 27th February 2014

14.2 **Motion Similar to One Rejected Previously**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the previous 6 months cannot be moved unless the notice of motion or amendment is signed by at least 10 members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment within a further period of 6 months.

15. **VOTING**

15.1 **Majority**

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

15.2 **Chairman's Casting Vote**

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

15.3 **Show of Hands**

Unless a recorded vote is demanded under Rule 15.4 of these Rules, the Chairman will take the vote by a show of hands, or if there is no dissent by the affirmation of the meeting.

Where the meeting is taking place remotely, the vote will be taken in accordance with the Virtual Meetings Procedure Rules through which the Chairman will take the vote by alphabetical rollcall or, if an item does not appear to be contentious, the Chairman will ask whether any Member disagrees or wishes to abstain. This will be actioned by the Member clicking on the "raise your hand" icon within the participant section.

15.4 **Recorded Vote**

If a decision is to be made in relation to budget and/or Council Tax or ¹⁵⁽ⁱ⁾ at least 6 members present request it by rising in their seats and before the Chairman begins to take the vote, the names for and against the motion or amendment or abstaining from voting will be taken down and entered into the minutes.

Where the meeting is taking place remotely, the request for a recorded vote will be signified by at least 6 members clicking on the 'raise your hand' icon. This may occur concurrently or following one member making that request, at least 5 more members clicking the 'raise your hand icon' within the participant section in support of them.

15.5 **Right to Require Individual Vote to be Recorded**

Where any member requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting. Where the meeting is taking place remotely, the request for a vote to be individually recorded will be facilitated via the member clicking the 'raise your hand' icon within the participant section.

15.6 **Right to Require Number Voting to be Recorded**

Where any member requests it, before the vote is taken, the number of councillors voting for and against the motion or amendment and the number abstaining from voting will be taken down in writing and entered into the minutes. Where the meeting is taking place remotely, the request for the number voting to be recorded will be facilitated via the member clicking the 'raise your hand' icon within the participant section.

15.7 **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, 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. Alternatively, the Chairman may determine that voting on appointments be by means of a ballot.

16. **MINUTES**

16.1 **Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman 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 and then only by motion duly moved and seconded.

16.2 **No Requirement to Sign Minutes of Previous Meeting at 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 purpose of paragraphs 41(1) and (2) of Schedule 12 relating to the signing of minutes.

16.3 Form of Minutes

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

17. RECORD OF ATTENDANCE

17.1 All members present during the whole or part of the meeting must sign their names in the attendance book before the conclusion of every meeting to assist with the record of attendance. Where the meeting is taking place remotely, the Host Officer will complete the Attendance book to record the members who have joined the Zoom conference.

18. EXCLUSION OF THE PUBLIC

18.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 of these Rules (Disturbance by the Public).

Where the meeting is taking place remotely confidential and exempt items will not be broadcast.

19. MEMBERS' CONDUCT

19.1 Standing to Speak

Unless permitted to remain seated by the Chairman, when a member speaks at full Council he/she must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the other must sit. Other members must remain seated whilst another member is speaking unless they wish to make a point of order or a point of personal explanation.

Where a meeting is taking place remotely and a member wishes to speak they must do so by clicking the 'raise your hand icon' within the participant section and wait to be addressed by the Chairman in accordance with the Virtual Meetings Procedure Rules.

19.2 **Chairman Standing**

When the Chairman stands during a debate any members speaking at the time must stop and sit down. The meeting must be silent.

Where the meeting takes place remotely the same effect will be achieved by the Chairman requesting that the Member Services Officer mutes all participants.

19.3 **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 direct that the member be not heard further. Where the meeting is taking place remotely, the Host Officer will be asked to mute the Member's microphone for the remainder of that item.

19.4 **Member to leave the meeting**

If the member continues to behave in a disorderly manner after being subject to a direction under 19.3 above, the Chairman may direct that either the member leaves the meeting or that the meeting be adjourned for a specified period. Where the meeting is taking place remotely, the Host Officer will be asked to disconnect the member from the meeting.

19.5 **General Disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

20. **DISTURBANCE BY THE PUBLIC**

20.1 **Removal of Member of the Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order his/her removal from the meeting room.

20.2 **Clearance of Part of 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.

20.3 Remote Meetings

Where a meeting is taking place remotely and continued interruptions occur, the Chairman will ask the Member Services Office hosting the meeting to disconnect those responsible.

21 PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS

Any person attending a meeting which is open to the public is to be permitted to report on the meeting 15(ii)

“reporting” means—

(a) filming, photographing or making an audio recording of proceedings at a meeting;

(b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
or

(c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.”

15(ii) Amendment approved 18th September 2014

22. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

22.1 **Suspension**

All of these Council Rules of Procedure except Rules 15.5 and 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting or part of the meeting.

22.2 **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 Council.

23. APPOINTMENT OF SUB-COMMITTEES, SUB-GROUPS AND ADVISORY/TASK GROUPS

23.1 The Council, Cabinet and any committee or panel may appoint such sub-committees or sub-groups as they may consider necessary from time to time and shall specify the purpose, terms of reference and any delegated powers of such sub-committee or sub-group.

23.2 The Council, Cabinet, Cabinet portfolio holder and any committee or panel may appoint such advisory groups as they may consider necessary from time to time and shall specify the purpose, duration and terms of reference of such advisory group, except that such advisory group shall be of a deliberative nature only and shall report back with or without recommendations to the body or person that appointed them.

23.3 The appointment of members to any sub-committee, sub-group or advisory group, shall be in accordance with legislative or regulatory requirements for the representation of political groups and shall have regard in particular to 23.2 above.

24. APPLICATION TO COMMITTEES AND PANELS¹⁶

24.1 All of the Council Rules of Procedure apply to meetings of full Council together with the Virtual Meetings Procedure Rules where applicable.

24.2 Meetings of the Cabinet are governed by the Cabinet Procedure Rules (Rule 4) only rules 18, 20,21, 22, 23, 25, 26 and 27 of this Rule 1 apply and shall be read in such a way as to apply to Cabinet and where relevant shall also be read in conjunction with the Virtual Meetings Procedure Rules.

24.3 Rules 3, 4, 5, 6, 7, 11, 12, 14, 15, 16, 17, 18, 19 (but not rule 19.1), 20, 21, 22, 23, 25, 26 and 27 apply to the proceedings of the Overview and Scrutiny Panels, committees, panels, sub-committees and sub-groups and shall be read in such a way as to apply to those meetings and where relevant shall also be read in conjunction with the Virtual Meetings Procedure Rules.

¹⁶ Amendment approved 29th July 2010

25. ITEMS ON COMMITTEE AGENDA

25.1 Any member wishing to have an item placed on an agenda for a meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel (other than by way of a notice of motion in accordance with Rule 11) shall contact the Chief Executive, or in his absence a member of Senior Management Team, requesting that an item be placed on the next available agenda for that body and the decision of the Chief Executive, or in his absence, a member of Senior Management Team, shall be final as to whether that item falls within the terms of reference of the Cabinet, Overview and Scrutiny Panel, a committee or panel.

26. ATTENDANCE BY MEMBERS OF THE COUNCIL AT MEETINGS OF WHICH THEY ARE NOT MEMBERS

26.1 A member of the Council may address a meeting of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group of which he/she is not a member on a specified item or terms of business where notice has been given to and prior permission obtained from the Chairman of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group. In cases where the Chairman does not give such permission under this Procedure Rule, the member so refused may seek the approval of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group and may attend for the purpose of stating his/her case. For the avoidance of doubt the right to address the meeting does not confer a right to take part in the debate or vote.¹⁷

27. MOVER OF MOTION MAY ATTEND MEETING

27.1 A member of the Council who has moved a motion which has been referred by the Council to the Cabinet, Overview and Scrutiny Panel, committee or panel shall receive notice of the meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and if he/she attends (shall have an opportunity of speaking to the motion and exercising the right of reply under Rule 12.9. These provisions are subject always to Rule 13.¹⁸

28 SUBSTITUTIONS¹⁹

¹⁷ Amendment approved 29th July 2010

¹⁸ Amendment approved 26th July 2012

¹⁹ Amendment approved 19th May 2011

- 28.1 Substitute Members will have all the powers and duties of any ordinary Members of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 28.2 Substitute Members may attend meetings in that capacity only:
- 28.2.1 to take the place of an absent ordinary Member for whom they are the designated substitute; and
 - 28.2.2 where the ordinary Member will be absent for the whole of the meeting; and
 - 28.2.3 where notification has been given to the Members Services Team not less than one hour before the meeting
- 28.3 Provided the above conditions have been satisfied, the substitute Member shall retain the right to vote for the duration of the meeting and may not be replaced by the Member for whom he or she is substituting.
- 28.4 However, if the Member who is to be replaced ("the original Member") is present at the start of the meeting then the substitution shall not have effect for that meeting - so that the substitute may not speak and/or vote in that capacity at that meeting and may only otherwise speak with the prior consent of the Chairman or in accordance with a public speaking right.
- 28.5 Where the original Member is not present at the start of the meeting at which the substitute is present, but arrives later, the original Member may not speak and/or vote at that meeting as a member of that Member Body and may only otherwise speak with the prior consent of the Chairman or in accordance with a public speaking right.
- 28.6 Such Rights shall not entitle any member to be present in the room when they would otherwise be excluded under Rule 13.²⁰

²⁰ Amendment approved 26th July 2012

RULE 2 ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

- 1.1 These Rules apply to all meetings of the Council, the Overview and Scrutiny Panel, committees, sub-committees, panels and sub-groups and public meetings of the Cabinet (together called meetings). They should be read in conjunction with the Virtual Meeting Procedure Rules whilst they remain in force.

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1 These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings (whether remotely or in person as applicable) subject only to the exceptions in these Rules.

4. NOTICES OF MEETING

- 4.1 The Council will give at least five working clear days notice of any meeting by posting details of the meeting at the Council's offices at Fenland Hall, March however where the Virtual Meetings Procedure Rules remain in force this information will instead be posted on the Council's website-

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. 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. Where reports are prepared after the agenda has been sent out, the Monitoring Officer²¹ shall make each such report available to the public as soon as the report is completed and sent to Councillors. The Council will make available a reasonable number of copies of the agenda for members of the public present at a meeting. However, where the Virtual Meetings Procedure Rules remain in force, this information will instead be available on the Council's website. Printed copies will not be circulated and nor will they be available for inspection at the Council's offices.

²¹ Amended 25th September 2009

6. SUPPLY OF COPIES

6.1 The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive or the Monitoring Officer²² thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person either electronically or by post on payment of a reasonable charge for postage and any other costs (no fee will be charged for inspection of any documents mentioned in this rule).

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

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

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

8. BACKGROUND PAPERS

8.1 List of background papers

Every report shall list those documents (background papers) relating to the subject matter of the report, except exempt or confidential information (as defined in Rule 10), which:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and

²² Amended 25th September 2009

- (b) which have been relied on to a material extent in preparing the report.

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. However, where the Virtual Meetings Procedure Rules remain in force, only electronic copies will be provided and printed copies will not be circulated and nor will they be available for inspection at the Council's offices.

9. SUMMARY OF PUBLIC'S RIGHTS

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Council's offices at Fenland Hall, March. However, where the Virtual Meetings Procedure Rules remain in force, only electronic copies will be provided and printed copies will not be circulated and nor will they be available for inspection at the Council's offices.

10. EXCLUSION OF THE PUBLIC FROM MEETINGS

10.1 Confidential information – requirement to exclude 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 public

- (a) 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.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

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 information²³

Exempt information means information falling within the following 7 categories, subject to the relevant condition(s):-

Category	Condition	Public Interest
1. Information relating to any individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

²³ Amended 21st December 2006

Category	Condition	Public Interest
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information within paragraph 3 is not exempt if it must be registered under the Companies Act 1985, the or Charities Act 1993, the Friendly Societies Acts of 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978 and the Building Societies Act 1986.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a Labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Category	Condition	Public Interest
5. Information in respect of which a claim to legal professional privilege could be maintained		Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes:- (A) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (B) to make an order or direction under any enactment	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.		Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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²⁴ Amendment approved 26th July 2012

Information falling within any of paragraphs 1 – 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS²⁵

11.1 If the Chief Executive or his/her nominee thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10 of these Rules, the meeting is likely not to be open to the public. Such reports will be endorsed “Not for publication” together with the category of information likely to be disclosed.

11.2 There should be a paragraph in the body of such a report setting out an explanation of why the category of exempt information is applicable and whether on balance the public interest should override the application of the exemption.

11.3 Where practicable any exempt information required to enable a proper decision to be taken on the matter being reported to a meeting as specified in 1.1 above, should be separate from the body of the report in an appendix.

12. APPLICATION OF RULES TO THE CABINET

12.1 Rules 13 – 24 of these Rules 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 defined in paragraph 3.2 of Article 13 of this Constitution.

12.2 If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer 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 of these Rules unless Rule 15 of these Rules (general exception) or Rule 16 of these Rules (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

²⁵ Amended 21st December 2006

13. **PROCEDURE BEFORE TAKING KEY DECISIONS**

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

- (a) a notice (in the form of a “forward plan”) has been published in connection with the matter in question;
- (b) at least three clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its, notice of the meeting has been given in accordance with Rule 4 of these Rules (notice of meetings).

14. **THE FORWARD PLAN**

14.1 **Period of Forward Plan**

Forward plans will be prepared by Cabinet to cover a period of four months, beginning with the first day of any month. They will be revised 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 matters which the Cabinet has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive 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;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

- (e) the means by which any such consultation is proposed to be undertaken;
- (f) 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
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

14.2.2 The forward plan must be published at least 14 days before the start of the period covered. The Monitoring Officer²⁶ shall publish once a year a notice in at least one newspaper circulating in the area, stating:-

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four months period following its publication;
- (d) that each will be available for inspection at reasonable hours free of charge at the Council's main office;
- (e) 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;
- (f) 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;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) 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 main office.

²⁶ Amended 25th September 2009

14.2.3 Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION

15.1 If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 of these Rules (special urgency), the decision may still be taken if:-

(a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;

(b) the Chief Executive has given notice in writing to the Chairman of the Overview and Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;

(c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and

(d) at least three clear days have elapsed since the Chief Executive complied with (b) and (c).

15.2 Where such a decision is taken collectively, it must be taken in public.

16. SPECIAL URGENCY

16.1 If by virtue of the date by which a decision must be taken Rule 15 of these Rules (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred.

16.2 If the Chairman of the Overview and Scrutiny Panel is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the consent of the Chief Executive or his/her nominee will suffice.

16.3 Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Panel, together with the reasons for urgency.

17. REPORT TO COUNCIL

17.1 When an Overview and Scrutiny Panel can require a report

If an Overview and Scrutiny panel thinks that a key decision has been taken which was not:-

- (a) included in the forward plan;
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Panel Chairman or the Chairman of the Council or the Chief Executive or his/her nominee under Rule 16 of these Rules;

the Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Panel when so requested by the Chairman or any three members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny panel.

17.2 Cabinet's Report to 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 seven working days of receipt of the written notice, or the resolution of the Panel, then the report may be submitted to the meeting after that. The report to the Council will set out particulars of the decision, the individual or body making the decision, and if the Cabinet is of the opinion that it was 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 executive decisions taken in the circumstances set out in Rule 16 of these Rules (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

- 18.1 After any meeting of the Cabinet or its committees, the Chief Executive 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

19.1 The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private, but the presumption will be that they will be in public.

20. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

20.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least three clear days after receipt of that report.

20.2 Provision of copies of reports to Overview and Scrutiny Panel

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

20.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Chief Executive to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 of these Rules (inspection of documents after meetings) will also apply to the making of decision by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

21. OVERVIEW AND SCRUTINY PANEL'S ACCESS TO DOCUMENTS

21.1 Rights to Copies

Subject to Rule 21.2 of these Rules, the Overview and Scrutiny Panel (including its sub-panels) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:-

- (a) any business transacted at a meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet.

21.2 Limit on Rights

The Overview and Scrutiny panel will not be entitled to:-

- (a) any document that is in draft form; or
- (b) 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.

22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

22.1 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 and contains material relating to any business previously transacted or relates to any key decision unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information set out in Rule 10.4 of these Rules.

22.2 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 Rule 22.1 of these Rules applies.

22.3 Nature of rights

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

RULE 3 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

- 1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once the budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

2. PROCESS FOR DEVELOPING FRAMEWORK

- 2.1 The process by which the budget and policy framework shall be developed is:-
- (a) The Cabinet will publicise by including in the forward plan and/or publication at the Council's offices or by other means e.g. on its website or in the local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Panel also will be notified. In the absence of the Chairman, the Vice-Chairman of the Panel will be notified. The consultation period shall in each instance be relevant to the proposals to be considered and sufficient for meaningful consultation.
 - (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Panel wishes to respond to the Cabinet in that consultation process then it may do so. As the Panel has responsibility for fixing its own work programme, it is open to the Panel to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Panel into account in drawing up firm proposals for the submission to the Council and its report to Council will reflect the comments made by consultees and the Cabinet's response.
 - (c) Once the Cabinet has approved firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
 - (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.

- (e) If it accepts the recommendation of the Cabinet without amendment the Council may make a decision which has immediate effect otherwise it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised within three working days of the meeting in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective within five working days from the publication of the Council's decision, unless the Leader informs the Chief Executive in writing within that period of five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Chief Executive will call a Council meeting within a further 15 working days unless the Leader considers that the matter can reasonably be referred to the next ordinary meeting of the Council. The Council will be required to reconsider its decision and the Leader's written submission. The Council may:-
 - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
 - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rules 5 and 6 of these Rules (virement and in-year adjustment). Any other changes to the policy and budgetary framework are reserved to the Council.

3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 3.1 Subject to the provisions of Rule 5 of these Rules (virement), the Cabinet committee of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging executive functions may only take decisions which are in line

with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 4 of these Rules.

- 3.2 If the Cabinet, a committee of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 of these Rules (urgent decisions outside the budget and policy framework) shall apply.

4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 4.1 The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:-
- (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) If the Leader and the Chairman of the Overview and Scrutiny Panel agrees that the decision is a matter of urgency.
- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Leader and Chairman of the Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Panel and/or the Leader, the consent of the Chairman of the Council, and in the absence of both, the Chief Executive or his/her nominee's consent will be sufficient.

4.3 Following the decision, the decision taker will provide a full report to the next ordinary Council meeting explaining the decision, the reasons for it and why the decision was taken as a matter of urgency.

5. VIREMENT

5.1 The Code of Financial Management in Part 4 of this Constitution includes provisions which set out the rules for moving monies between budgetary allocations including contingencies (virement).

6. IN YEAR CHANGES TO POLICY FRAMEWORK

6.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies and individuals except those changes:-

- (a) which will result in the closure and discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

6.2 In each case a report on the action taken will be reported by the Cabinet to the next ordinary meeting of the Council.

7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

7.1 Where the Overview and Scrutiny Panel is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

- 7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Panel if the Monitoring Officer or Chief Finance Officer conclude that the decision was not a departure.
- 7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Overview and Scrutiny Panel. At the meeting it will receive a report on the decision or proposals and the advice of the Monitoring Officer and/or the Finance Officer. The Council may either:-
- (a) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (b) amend the Council's Code of Financial Management or policy concerned to encompass a decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the Council's budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Finance Officer.

RULE 4 CABINET PROCEDURE RULES

1. OPERATION OF THE CABINET

1.1 Who May Make Cabinet Decisions

The Leader will make arrangements for the discharge of Cabinet Functions as set out in Part 3 of the Constitution, the Leader may provide for executive functions to be discharged by some or all of the following: -¹

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an officer;
- (e) joint arrangements; or
- (f) another local authority.

1.2 Delegation by the Leader

At the Annual Meeting of the Council and if any arrangements should change during the year at the next Council meeting², the Leader will present for adoption or information as appropriate under this Constitution, the following information about executive functions in relation to the following year:-

- (a) the collation of relevant executive functions into related groups to be known as “portfolios”;
- (b) the names, addresses and wards of the people he/she is proposing to be appointed to the Cabinet and their responsibility for the individual portfolios;
- (c) insofar as they are not already set out in the Council’s adopted scheme:
 - (i) the extent of any authority delegated by the Leader to a member of the Cabinet individually (including him/herself), including details of any limitation (if any) on their authority;

¹ Amendment approved 16th December 2010

² Amendment approved 25th February 2010

- (ii) the nature and extent of any delegation of executive functions proposed to any other authority or under any joint arrangements and the names of those Cabinet members and/or other members appointed to any joint committee under Article 11 of this Constitution for the coming year; and
- (iii) the nature and extent of any delegation to officers with details of any limitation (if any) on that delegation, and the title of the officer to whom the delegation is made.

1.3 **Sub Delegation of Cabinet Functions**

- (a) where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for a cabinet function, they may delegate further to an area committee, joint arrangements or an officer;
- (b) unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Cabinet committee or to an officer;
- (c) unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer;
- (d) any proposal to delegate an executive function under joint arrangements or to another local authority shall be the subject of a recommendation to the Council under paragraphs 2 and 4 of Article 11 of this Constitution; and
- (e) even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

1.4 **The Council's Scheme of Delegation and Executive Functions**

- (a) Subject to (b) below, the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions (s)he may amend the scheme of delegation relating to executive functions at any time during the year. To do so the Leader must give written notice to the Chief Executive and to the person body or

committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body or committee. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when it has been served on its Chairman.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member or an officer and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Codes of Conduct for Members in Part 5 of this Constitution.

1.6 Cabinet meetings – Frequency and Venue

The Cabinet will meet at least 8¹ times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or other locations to be agreed by the Leader unless the Virtual Meetings Procedure Rules are in force in which case meetings may take place remotely or in person as appropriate-

1.7 Meetings of the Cabinet

All meetings of the Cabinet will normally be held in public. Where the Cabinet is considering items of a confidential or exempt nature these may be heard in private provided that the subject matter of the item falls within one of the paragraphs in Part I of Schedule 12A to the Local Government Act, 1972.

¹ Amendment approved 20th February 2020

1.8 Quorum

The quorum for a meeting of the Cabinet or a committee of it shall be three members.

1.9 Decision Taking by the Cabinet

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

2. CONDUCT OF CABINET MEETINGS

2.1 Chairman

If the Leader is present (whether remotely or in person) he/she shall preside at meetings of the Cabinet. In the absence of the Leader, the Deputy Leader will chair the meeting (whether remotely or in person). If the Leader and Deputy Leader are not present, Cabinet will appoint a person from among those present (whether remotely or in person) to preside at the meeting. 2(i)

2.2 Attendance

The details are set out in the Access to Information Rules in Part 4 of this Constitution.

Members may attend and speak for up to 3 minutes on any item of business before the Cabinet providing that they confirm their intention to the Chief Executive no later than noon three working days before the meeting. Cabinet Members may ask questions of the member concerned but the member is not entitled to debate the item. For the avoidance of doubt this is not a public speaking right within the meaning of section 12(2) of the Code of Conduct for Members.¹

²⁽ⁱ⁾ Amendment approved 11th May 2017

¹ Amendment approved 25th February 2010

2.3 Business

At each meeting of the Cabinet, the following business will be conducted however, where the meeting is taking place remotely, the Virtual Meetings Procedure Rules will take precedence whilst they remain in force: -

- (a) apologies for absence
- (b) consideration of the minutes of the last meeting;
- (c) declarations of interest (if any);
- (d) any matters referred to the Cabinet (whether by the Overview and Scrutiny Panel or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (e) consideration of reports from the Overview and Scrutiny Panel; and
- (f) matters set out in the agenda for the meeting and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.
- (g) any petitions submitted to the Cabinet.
- (h) any Public Questions submitted under the terms of Standing Order 9A but marked for the attention of Cabinet are to be managed in accordance with rule 9A save that references to Council shall be read as references to Cabinet.¹

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2.4 Consultation

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

¹ Amendment approved 25th February 2010

2.5 Cabinet Agenda Items

- (b) Any member of the Cabinet may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request, the Chief Executive will comply.
- (c) The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting.
- (e) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Monitoring Officer and Chief Finance Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

RULE 5 OVERVIEW AND SCRUTINY PROCEDURE RULES

1. PRINCIPLES

The purpose of these rules is to ensure that the Overview and Scrutiny function of the Council:

- adds value to the Council and the community
- provides an effective means of holding decision takers, in both the Council and other local service providers, to account
- includes the strategic development of policy
- reviews issues of concern to local people
- is cross-cutting, connected to public opinion and sets its own brief
- is deliberative, investigative, evidence based, open, transparent, responsive, outward looking, inclusive, proactive, flexible, cross-party, constructive and influencing
- protects the rights of minority political groups
- treats people with respect and does nothing to compromise the impartiality of those who work for, or on behalf of, the Council.

2. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

2.1 The Council will have Overview and Scrutiny Panels as set out in Article 6 and Table 1 to this rule and will appoint such members to them as it considers appropriate from time to time. The Panels may appoint Review teams to assist them. The Council may appoint other ad hoc Overview and Scrutiny Panels for a fixed period or for a specific purpose on the expiry or achievement of which they shall cease to exist. Such ad hoc panels will not have the power to call in but shall have all other powers of the Overview and Scrutiny Panel. In this rule the phrase Overview and Scrutiny Panel shall refer to whichever panel is relevant to the consideration, or all panels taken together.⁶

3. TERMS OF REFERENCE

3.1 The terms of reference of the Overview and Scrutiny Panel will be to:-

1. formulate and co-ordinate its work programme relating to performance issues, including the programme of any task and finish groups it appoints, to ensure that there is efficient use of the panel's and task and finish groups' time, and that the potential for duplication of effort is minimised.

⁶ Amendment approved 25th February 2010

2. receive requests from the Executive, individual members⁷ and/or the Full Council for reports from the Overview and Scrutiny Panel as appropriate.
3. put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for re-consideration are managed efficiently and do not exceed the limits set out in this Constitution.
4. at the request of the Executive to make decisions about the priority of referrals made, in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business.
5. perform the Overview and Scrutiny role in relation to the following matters:
 - (a) reviewing and reporting to Executive on the local authority's performance against the Best Value Performance Plan;
 - (b) monitoring and assessing quality of service across the Council;
 - (c) reviewing information from satisfaction surveys;
 - (d) receiving reports on quality and service from the Executive, officers and committees and recommending improvements as appropriate;
 - (e) to review and scrutinise the performance of other local service providers or body in relation to the economic, social or environmental well-being of the district;
 - (f) development of the Council's annual budget;
 - (g) development of the medium-term financial strategy;
 - (h) development of the Council's Community Plan to promote the economic, social and environmental well-being of the area;

⁷ Amendment approved 8th May 2008

- (i) development of the Council's Best Value Performance Plan;
- (j) development of the Council's planning policies (including the Local Development Framework and other plans for the use and development of land);
- (k) development of the Crime and Disorder Reduction Strategy;
- (l) development of the plan and strategy which comprise the Housing Investment Programme;
- (m) conduct of elections;
- (n) assist the Executive in the development of the Council-wide policy and asset strategy;
- (o) identifying and promoting best practice in relation to service delivery;
- (p) recommendations to the Executive for matters to be included in the annual Best Value Performance Plan and/or Best Value Reviews to be conducted;
- (q) contributing to the development of policies other than those specified in the policy framework, including in relation to:
 - i) leisure, arts, sport, cultural and recreational activities;
 - ii) the regeneration of communities in the area;
 - iii) social inclusion and the Council's specific initiatives to promote it;
 - iv) the physical regeneration of the area including economic development;
 - v) health, housing and social care;
 - vi) the protection and enhancement of the environment;
 - vii) public protection;
 - viii) lifelong learning;
 - ix) the development of partnerships with external organisations;
- (r) to make recommendations to any other person or body to maintain or improve the economic, social or environmental well-being of the District.

- (s) In accordance with the Councils Petition Scheme:
 - i) Receive Petitions calling Officers to account
 - ii) Review the steps taken to respond to a petition⁸

4. **MEMBERSHIP OF THE OVERVIEW AND SCRUTINY PANEL**

4.1 The Overview and Scrutiny Panel will comprise a maximum of 12 members of the Council with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. All Councillors, except members of the Cabinet, may be members of the Overview and Scrutiny Panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

5. **CO-OPTEEES**

5.1 The Overview and Scrutiny Panel and any Review Teams it establishes shall be entitled to appoint up to 3 people at any one time as non-voting co-optees. The Panel or Review Team shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items.

6. **MEMBERSHIP OF REVIEW TEAMS**

6.1 Review Teams will normally be Chaired by a member of an Overview and Scrutiny Panel and comprise the number of members drawn from all councillors who are not members of the Cabinet as determined by the Overview and Scrutiny Panel.

7. **MEETINGS OF THE OVERVIEW AND SCRUTINY PANEL**

7.1 There shall be no more than 12 ordinary calendar meetings of an⁹ Overview and Scrutiny Panel. In addition, extraordinary meetings may be called from time to time as and when appropriate. The Overview and Scrutiny Panel meetings may be called by the Chairman of the Panel, by any three members of the Panel or by the Chief Executive if he/she considers it necessary or appropriate.

7.2 Meetings of the Overview and Scrutiny Panel and Review Teams will take place in accordance with the Virtual Meetings Procedure Rules as appropriate.

⁸ Amendment approved 29th July 2010

⁹ Amendment approved 25th February 2010

8. QUORUM

8.1 The quorum for the Overview and Scrutiny Panel and Review Team shall be as set out for committees etc. in the Council Procedure Rules in Part 4 of the Constitution.

9. CHAIRMAN AND VICE-CHAIRMAN OF THE OVERVIEW AND SCRUTINY PANEL

9.1 The Chairman and Vice-Chairman of an Overview and Scrutiny Panel will be drawn from among the Councillors sitting on the Panel.¹⁰

10. WORK PROGRAMME

10.1 The Overview and Scrutiny Panel will be responsible for setting their own work programme and in doing so shall take into account the wishes of all members on the panel irrespective of political affiliation.

11. AGENDA ITEMS

11.1 Any member of an Overview and Scrutiny Panel shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting of the Panel. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

11.2 Any member of the Council who is not a member of the Overview and Scrutiny Panel concerned may give written notice to the Chief Executive that they wish an item relevant to the functions of the Panel to be included on the agenda. If the Chief Executive receives such a notification, then he/she will include an item on the first available agenda for consideration by the Panel. The members will be entitled to appoint a spokesperson to attend the meeting at which the item is to be discussed and the member may speak on the issue but may not vote. The Committee shall determine the appropriate level of investigation for such matters and report accordingly.¹¹

11.3 The Overview and Scrutiny Panel shall also respond as soon as its work programme permits to request from the Council and, if they consider it appropriate, the Cabinet to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Panel concerned shall report its findings and any

¹⁰ Amendment approved 25th February 2010

¹¹ Amendment approved 8th May 2008

recommendations back to the Council and/or Cabinet. If practicable the Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Panel at their next ordinary meeting after its receipt or at the ordinary meeting immediately after that.

12. POLICY REVIEW AND DEVELOPMENT

- 12.1 The role of the Overview and Scrutiny Panel in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Rules in Part 4 of this Constitution.
- 12.2 In relation to the development of the Council's approach to the matters not forming part of its policy and budget framework, Overview and Scrutiny Panel or Review Teams appointed by the Panel, may make proposals to the Cabinet for developments insofar as they relate to matters within its terms of reference.
- 12.3 The Overview and Scrutiny Panel or Review Teams appointed by the Panel, may hold enquiries and/or investigate available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things they may reasonably consider necessary to inform their deliberations and, during the Covid-19 outbreak in accordance with any applicable Government Guidance in force at the relevant time. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so within the allocation of funds approved by the Council.

13. REPORTS FROM THE OVERVIEW AND SCRUTINY PANEL

- 13.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Panel will 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).
- 13.2 If the Overview and Scrutiny Panel cannot agree upon a final report to the Council or Cabinet as appropriate, then up to one minority report or note of particular areas of disagreement may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

- 13.3 The Council or Cabinet will consider the report of the Overview and Scrutiny Panel no later than their second meeting following its receipt.

14. CONSIDERATION OF OVERVIEW AND SCRUTINY PANEL REPORTS

- 14.1 Once the report of the Overview and Scrutiny Panel on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda no later than the second meeting following its receipt. If for any reason the Cabinet does not consider the Overview and Scrutiny Panel's report within two months the matter will be referred to the Council for review, and the Chief Executive will call a Council Meeting to consider the report and make a recommendation to the Cabinet.
- 14.2 Once the Overview and Scrutiny Panel has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Cabinet and Council for consideration according to whether the contents of the report would have implications for the Council's budget and policy framework. The Cabinet will have one month in which to respond to the Overview and Scrutiny Panel's report and the Council will not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Panel on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Panel's proposals.
- 14.3 Before submitting a Best Value Review Report and Improvement Plan to Council, the Overview and Scrutiny Panel shall have formally consulted the relevant portfolio holder(s) and Cabinet who shall be given reasonable time to respond to the consultation.
- 14.4 Where the Overview and Scrutiny Panel prepares a report for consideration by the Cabinet in relation to a matter where the Council or the Leader has delegated decision making power to another individual member of the Cabinet, the Overview and Scrutiny Panel will submit a copy of its report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Panel shall serve a copy on the Chief Executive and the Leader. If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Panel then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Panel. The

Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Panel within two months of receiving the report. A copy of his/her written response to it shall be sent to the Chief Executive and the Cabinet member will attend a future meeting of the Panel to respond.

15. RIGHTS OF THE OVERVIEW AND SCRUTINY PANEL'S MEMBERS TO DOCUMENTS

15.1 In addition to their rights as councillors, members of the Overview and Scrutiny Panel have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution and as varied by the Virtual Meetings Procedure Rules whilst they remain in force.

15.2 Nothing in this paragraph prevent more detailed liaison between the Cabinet and the Overview and Scrutiny Panel depending upon the particular matter under consideration.

16. MEMBERS AND OFFICERS GIVING ACCOUNT

16.1 The Overview and Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role it may require any member of the Cabinet, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:-

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

and it is the duty of those persons to attend if so required.

16.1A Where a Panel of the Overview and Scrutiny Committee is responding to a Petition calling officers to account under the Councils Petition Scheme the following shall apply:

- (i) The questioning shall be confined to the subject of the Petition,
- (ii) The organiser of the Petition or it's supporters are not entitled by virtue of this rule to pose questions directly to officers, however they may suggest questions to the

Chairman in writing up to three working days in advance.¹²

- 16.2 Where any member or officer is required to attend an Overview and Scrutiny Panel meeting under this provision, the Chairman of that Panel will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 16.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the Overview and Scrutiny Panel concerned shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of two months from the date of the original request.
- 16.4 The questioning of members and staff required to attend an Overview and Scrutiny Panel shall be conducted fairly and courteously. Members and staff giving account may be asked to provide factual information and to justify decisions or actions they have taken. No Councillor or member of staff shall be required to give an opinion on any decision or action to which they were not a party and for which they do not have any responsibility, whether individually or collectively. No member of staff shall be required to answer any question which would compromise their political impartiality, including supporting or opposing any stated policy associated with a political party. The questioning of members or staff shall not be used to make accusations or to allege any wrongdoing on their part. Any such accusations or allegations shall be dealt with under the provisions of the Protocol on Member/Staff Relations or whistleblowing policy and procedure in Part 5 of this Constitution. The questioning of a member of staff may be adjourned at their request for a period to be set by the Chair.
- 16.5 The most senior officer present, other than the one giving account, may request the Chairman to cease the questioning of an officer giving account where he or she considers that the provisions of these rules are being breached.

¹² Amendment approved 29th July 2010

16.6 Where the Overview and Scrutiny Panel is reviewing the work of the Council which is not a function of the Cabinet, it should not scrutinise individual decisions made by the Council or any committee or panel thereof, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In making reports and recommendations on functions which are not the responsibility of the Cabinet, such reports and recommendations should normally be used as part of wider policy reviews.

(For the purposes of this Rule: "senior officer" has the meaning set out in Article 6); reference to Overview and Scrutiny Panel shall include reference to any Review Team).

17. ATTENDANCE BY OTHERS

17.1 The Overview and Scrutiny Panel or Review Team may invite people other than those people referred to in Rule 16 of these Rules to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from Councillors who are not members of the Cabinet, residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

18. CALL- IN

18.1 When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be made available at the main offices of the Council within three working days of being made.

18.2 The members of the Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

18.3 That notice will bear the date on which it is published and will 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.

18.4 During that period the Chief Executive shall call in a decision for scrutiny by the appropriate panel if so requested by: a Chairman or Vice Chairman of any panel, or any three members who are members of the Overview and Scrutiny Function, or any 10 members of the Council and shall then notify the decision maker of the call-in. A request for call in must be made in writing and shall specify the reason(s) why the decision is being called in.

The decision called in will be referred by the Chief Executive to the next scheduled meeting of the relevant Panel but if no meeting is scheduled within 15 working days of the decision to call in, he/she shall call a meeting of the Panel on such date as he/she may determine, where possible after consultation with the Chairman of the Panel, and in any case within 15 working days of the decision to call in.¹³

- 18.5 If, having considered the decision, the Overview and Scrutiny Panel does not object to a decision which has been made, no further action is necessary and the decision will be effective from the date of the meeting. If the Overview and Scrutiny Panel¹⁴ is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider it within a further ten working days, amending the decision or not before adopting a final decision.
- 18.6 If, following an objection to the decision, the Overview and Scrutiny Panel does not meet in the period set out above or does meet but does not refer the matter back to the decision making person or body or refer the matter to full Council, the decision shall take effect on the date of the Overview and Scrutiny Panel meeting or the expiry of the 15 working days period whichever is the earlier.¹⁵
- 18.7 If the matter is referred to full Council it shall be dealt with at the next ordinary meeting of the Council. If the Council does not object to a decision which has been made, no further action is necessary and the decision will be effective from the date of the meeting.¹⁶ However, if the Council does object, it 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 body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet a meeting will be reconvened to reconsider it within ten working days of the Council's request. Where the decision was made by an individual, the individual will reconsider it within ten working days of the Council's request.

¹³ Amendment approved 29th July 2010

¹⁴ Amendment approved 29th July 2010

¹⁵ Amendment approved 29th July 2010

¹⁶ Amendment approved 29th July 2010

18.8 If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting of the expiry of the period in which the Council meeting should have been held whichever is the earlier.

19. **EXCEPTIONS**

19.1 To ensure call-in is not abused, nor causes unreasonable delay, the Council may place limitations on its use.

20. **CALL-IN AND URGENCY**

20.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet or a key decision by an officer with delegated authority from the Cabinet or under joint arrangements is urgent.

20.2 A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one and therefore not subject to call-in.

20.3 The Chairman of the Overview and Scrutiny Panel or in his/her absence the Chairman of the Council must agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of both the Chairman of the Overview and Scrutiny Panel and the Chairman of the Council, the Chief Executive or his/her nominee's consent shall be required.

20.4 Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Panel together with the reasons for the urgency.

21. **PROCEDURE AT THE OVERVIEW AND SCRUTINY PANEL MEETINGS**

21.1 The Overview and Scrutiny Panel shall consider the following business however, where the meeting is taking place remotely, the Virtual Meetings Procedure Rules will take precedence whilst they remain in force:-

- (a) apologies for absence;
- (b) minutes of the last meeting;

- (c) declarations of interest;
- (d) consideration of any matter referred to the panel for a decision in relation to call-in of a decision;
- (e) responses of the Cabinet and the Council to reports of the Overview and Scrutiny Panel; and
- (f) the business otherwise set out on the agenda for the meeting.

21.2 Where the Overview and Scrutiny Panel, or a Review Team, conducts investigations (e.g. to review the Council's performance with a view to policy development) the Panel or Team may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles: -

- (a) that the investigation will be conducted fairly and all members of the Panel or Team will be given the opportunity to ask questions of attendees and to contribute and speak;
- (b) that those assisting the Panel or Team by giving evidence shall be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

21.3 Following an investigation or review, the Overview and Scrutiny Panel/Review Team shall prepare a report for submission to the Cabinet or Council as appropriate and shall make its report and findings public.

22. MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY PANEL OR¹⁷ REVIEW TEAM

22.1 Where a matter for consideration by an Overview and Scrutiny Panel or Review Team also falls within the remit of one or more other such Overview and Scrutiny Panel or Review Team the decision as to which Overview and Scrutiny Panel or Team will consider it will be resolved by the Chairman of the Overview and Scrutiny Panels acting jointly and the decision will be reported to the next meeting of the Overview and Scrutiny Panel.¹⁸

¹⁷ Amendment approved 25th February 2010

¹⁸ Amendment approved 25th February 2010

22.1A Where an Overview and Scrutiny Panel is considering a matter referred to it pursuant to section 18 (Call in) then any member of Overview and Scrutiny may attend the Panel for the purposes of that item and shall have the right to speak, take part in the debate and vote. Members attending under this provision do not form part of any consideration of Quorum which must be calculated on the membership of the Panel considering the matter. For the avoidance of doubt this provision does not create a public speaking right further to section 12 of the Code of Conduct for Members.

22.1B Where an Overview and Scrutiny Panel is considering a matter referred to it pursuant to section 16.1A (Petition Calling Officers to Account) then any member of Overview and Scrutiny may attend the Panel for the purposes of that item and shall have the right to speak, ask questions, take part in the debate and vote. Members attending under this provision do not form part of any consideration of Quorum which must be calculated on the membership of the Panel considering the matter. For the avoidance of doubt this provision does not create a public speaking right further to section 12 of the Code of Conduct for Members.¹⁹

22.1C Where a matter is not covered by rules 22.1A or 22.1B above, and if the matter could be considered by more than one Panel separately, and if it is considered by the Chairmen of the Panels concerned acting together that the matter is of such significance that one panel alone should not consider it. Then they may agree that one Panel shall consider the matter but that the members of the other relevant Panel(s) may attend the Panel for the purposes of that item and shall have the right to speak, take part in the debate and vote. Members attending under this provision do not form part of any consideration of Quorum which must be calculated on the membership of the Panel considering the matter. For the avoidance of doubt this provision does not create a public speaking right further to section 12 of the Code of Conduct for Members.²⁰

22.2 Where a Review Team conducts a review of a matter which also falls (whether in whole or in part) within the remit of another such Team, then the Team conducting the review shall invite the Chairman of the other Team(s) (or his/her nominee) to attend its meeting when the matter is being reviewed.

¹⁹ Amendment approved 29th July 2010

²⁰ Amendment approved 16th December 2010

TABLE 1²¹:
TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY PANELS:

OVERVIEW AND SCRUTINY PANEL²²

1. To formulate and co-ordinate its work programme relating to policy and performance issues, including the programme of any task and finish groups it appoints, to ensure that there is efficient use of the Panel's and task and finish groups' time, and that the potential for duplication of effort is minimised.
3. To receive requests from the Executive and/or the Full Council for reports from the Overview and Scrutiny Panels as appropriate and to allocate them if appropriate to one or more Overview and Scrutiny task and finish Groups.
4. To put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.
5. At the request of the Executive to make decisions about the priority of referrals made, in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business.
6. To perform the Overview and Scrutiny role in relation to the following matters:
 - (a) the development of the Council's Corporate Plan
 - (b) the development of the Council's annual budget;
 - (c) the development of the medium-term financial strategy;
 - (d) to review and scrutinise the Council's performance in relation to the Corporate Plan and associated budgetary management;
 - (e) the development of the Council's community strategy to promote the economic, social and environmental well-being of the area;
 - (f) the development of the Council's planning policies (including the Local Development Framework and other plans for the use and development of land);
 - (g) identifying and promoting best practice in relation to service delivery;
 - (h) monitoring and assessing quality of service across the Council;

²¹ Amendment approved 25th February 2010

²² Amendment approved 19th May 2011

- (i) reviewing information from satisfaction surveys;
- (j) co-ordinating and publishing information on service performance;
- (k) receiving reports on quality and service from the Executive, officers and committees and recommending improvements as appropriate;
- (l) to review and scrutinise the performance of other local service providers or body in relation to the economic, social or environmental well-being of the District.
- (m) to make recommendations to any other person or body to maintain or improve the economic, social or environmental well-being of the District
- (n) contributing to the development of policies other than those specified in the policy framework, including in relation to
 - i) leisure, arts, sport, cultural and recreational activities;
 - ii) the regeneration of communities in the area;
 - iii) social inclusion and the Council's specific initiatives to promote it;
 - iv) the physical regeneration of the area including economic development;
 - v) health, housing and social care;
 - vi) the protection and enhancement of the environment;
 - vii) public protection;
 - viii) lifelong learning;
 - ix) the development of partnerships with external organisations;

RULE 8 OFFICER EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

1.1 Declarations

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, step-child, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council or of the partner of such person.
- (b) No candidates so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

1.2 Seeking Support for Appointment

- (a) Subject to paragraph (c) of this Rule, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment to the Council. The content of this paragraph will be included in any recruitment information.
- (b) Subject to paragraph (c) of this Rule, no Councillor will seek support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) of this Rule will preclude a Councillor from giving a written reference for a candidate for submission in support of an application for appointment.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CORPORATE DIRECTORS¹

2.1 Where the Council proposes to appoint the Head of Paid Service or a Corporate Director² and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
 - (i) the duties of the officer concerned; and

¹ Amendment approved 26th July 2012

² Amendment approved 26th July 2012

- (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph 2(a) to be sent to any person upon request.

3. **APPOINTMENT OF HEAD OF PAID SERVICE**

- 3.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of the Appointments Panel³.

4. **APPOINTMENT OF CORPORATE DIRECTORS⁴**

- 4.1 In the event that a Corporate Director⁵ post becomes vacant, with the exception of internal reviews whereby the Chief Executive will be responsible for any changes to the Management Structure, the Appointments Panel in conjunction with the Chief Executive will make the appointment.⁶

5. **OTHER APPOINTMENTS**

5.1 **Heads of Service**

The Chief Executive or Corporate Director⁷ will appoint Heads of Service in consultation with relevant Cabinet members and opposition representatives who should sit on the appointment panel.

- 5.2 **Officers below Heads of Service** – appointment of officers below heads of service level is the responsibility of the Chief Executive, Corporate Directors⁸ or their nominee, and may not be made by Councillors.

- 5.3 **Assistants to political groups** – in the event of an appointment of an assistant to a political group such appointment shall be made in accordance with the wishes of that political group.

³ Amendment approved 13th May 2010

⁴ Amendment approved 26th July 2012

⁵ Amendment approved 26th July 2012

⁶ Amendment approved 13th May 2010

⁷ Amendment approved 26th July 2012

⁸ Amendment approved 26th July 2012

6. DISCIPLINARY ACTION

- 6.1 **Suspension** – the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will usually last 8(i) no longer than two months.
- 6.2 (Deleted)8(i)
- 6.3 National conditions of service as supplemented by agreed local arrangements shall apply to all disciplinary actions.
- 6.4 Councillors will not be involved in the disciplinary action against any officers below Heads of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. DISMISSAL

- 7.1 Councillors will not be involved in the dismissal of any officer below head of service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 7.2 (Inserted 8 (i)) In this section-
- “**relevant officer**” shall mean the Head of Paid Service, Monitoring Officer and Chief Finance Officer, as the case may be;
- “**Independent Person**” means a person appointed under section 28(7) of the Localism Act 2011;
- “**local government elector**” means a person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the People Acts;
- “**members**” means current Fenland District Councillors;
- “**the panel**” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
- “**relevant meeting**” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer;

“relevant independent person” means any independent person who has been appointed by the Council.

(a) A relevant officer may not be dismissed by the Council unless the procedure set out below is complied with -

- The Monitoring Officer, or other relevant officer or the Deputy Monitoring Officer as appropriate, must invite 2 relevant independent persons to be appointed to a panel. In addition the panel will consist of 5 other Councillors to be nominated by Group Leaders in accordance with the requirements of political proportionality.
 - The Monitoring Officer, or other relevant officer or Deputy Monitoring Officer, will appoint to the panel such relevant independent persons as necessary in accordance with the following priority order –
 - (i) A relevant independent person who has been appointed by the Council and who is a local government elector.
 - (ii) Any other relevant independent person who has been appointed by the Council.
 - (iii) A relevant independent person who has been appointed by another council or councils.
 - The Monitoring Officer, or other relevant officer as appropriate, must appoint the panel at least 20 working days before the relevant meeting.
 - Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account-
 - (i) any advice, views or recommendations of the panel;
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iii) any representations from the relevant officer.
- (a) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the Localism Act 2011.

RULE 9: PROCEDURE FOR RESPONDING TO CONDUCT COMPLAINTS AND HEARING PANEL PROCEDURE RULES⁹

1. INTRODUCTION

- 1.1. Fenland District Council (“the Authority”) is responsible for receiving and determining conduct complaints for both District Councillors, and the Town and Parish Councillors within the District.
- 1.2. All members are required to conduct themselves in accordance with a locally agreed Code of Conduct. Fenland District Council’s Code can be found at Part 5 of Fenland District Council’s Constitution [https://www.fenland.gov.uk/media/1862/Codes-and-Protocols---4-5-and-6/pdf/K_v2_Codes_and_Protocols_4_5_and_6.pdf] and in all other cases on the websites of the relevant Town or Parish Councils.
- 1.3. Where it is considered that a Member has breached the Code of Conduct, this Procedure shall apply.
- 1.4. Where a particular number of working days has been specified for compliance with any given stage of this process, this is intended as an indication of best practice but may be varied with the consent of the Monitoring Officer where exceptional circumstances exist for example to take into account periods of unavailability resulting from illness or leave.
- 1.5. Any function of the Monitoring Officer in this procedure may be delegated to the Deputy Monitoring Officer at any time.
- 1.6. In this Procedure and the Conduct Committee Hearing Procedure, the following definitions shall apply:
 - 1.6.3. **Chairman:** in this procedure references to the Chairman are references to the Chairman of the Conduct Committee and should also be taken to include references to the Vice Chairman of the Conduct Committee. The Vice Chairman will act in the Chairman’s place where he/she is unavailable for any reason to include where a conflict of interest exists.
 - 1.6.4. **Code of Conduct:** means the Code of Conduct for Members adopted by Fenland District Council to promote high standards of behaviour amongst the elected and co-opted members of the Council whenever they are acting in their capacity as a member of the Authority or giving the impression of acting as a representative of the Authority.
 - 1.6.5. **Conduct Committee:** Means the committee with authority to hear conduct complaints referred by the Monitoring Officer whose terms of reference are set out at [Rule 9 of the Constitution - https://www.fenland.gov.uk/media/12347/Rules-of-Procedure---Rules-8-to-10/pdf/I_v5_Rules_of_Procedure_8_9_and_10.pdf].

⁹ Revised Rule 9 approved 18th September 2019
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- 1.6.6. **Independent Person:** The Independent Person is a lay person who has been appointed by a majority of all the Councillors on the District Council. The Independent Person is invited to attend all meetings of the Conduct Committee. Their views are sought and taken into consideration: (a) before the Monitoring Officer decides whether to investigate a complaint (b) before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution (c) before the Conduct Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the respective Code of Conduct.
- 1.6.7. **Subject(s):** means the Councillor(s) who is/are the subject of the complaint(s).

2. PROCEDURE FOR DEALING WITH CONDUCT COMPLAINTS

2.1. Reporting Concerns & Confidentiality

- 2.1.3. All complaints should be submitted in the prescribed form which can either be accessed on-line [<https://www.fenland.gov.uk/memberconduct>] or emailed/posted upon request to the Monitoring Officer. Completed forms should also be returned to the Monitoring Officer at Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ, or by email to monitoringofficer@fenland.gov.uk.
- 2.1.4. Complaints will be acknowledged in writing within 5 working days of receipt and where necessary the Monitoring Officer will clarify any points of uncertainty as soon as possible and before any further action is taken.
- 2.1.5. In order to ensure that a fair process can be followed and subject to paragraph 2.1.7 details of the complaint together with the name of the complainant will be shared with the Subject concerned as soon as practicable after receipt (or where clarification is sought, as soon as possible after that). At that stage the Subject will be given 7 working days to provide an initial response to the concerns which the Monitoring Officer will take into account in determining what if any further action to take under this procedure.
- 2.1.6. The Monitoring Officer can obtain any other preliminary information as may be of assistance such as minutes of meetings, policy or procedural documents and published media. This can be done at any stage in the process if it is felt it will aid decision making.
- 2.1.7. Anonymous complaints will not be acted on unless there is a clear public interest to do so however, complainants can request that their identities remain confidential in exceptional circumstances. Requests for confidentiality will be considered by the Monitoring Officer and the complainant will be informed in writing of the outcome before the complaint proceeds any further.
- 2.1.8. The Monitoring Officer will keep the Complainant, the Subject and the Clerk (if appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

- 2.1.9. The existence and content of all complaints will remain strictly confidential and shall not be published, discussed or otherwise disclosed until a conclusion has been reached and unless it is a requirement of this or the hearing process (for example at an investigative interview or hearing) or the Subject waives this requirement by making the disclosure themselves.
- 2.1.10. Complainants can withdraw their complaint at any time during the process by informing the Monitoring Officer in writing. The Monitoring Officer does however reserve the right to pursue the issues giving rise to the complaint where it is considered to be in the interests of good governance to do so.

2.2. Initial Consideration of the Complaint

2.2.3. The Monitoring Officer will consider the complaint and determine, in consultation with the Chairman and Independent Person which of the following actions to take:

- No further action required;
- Further action through information resolution;
- Referral to the Police in any circumstance where there is evidence of potential criminal conduct;
- Referral for investigation in accordance with paragraph 2.3 of this Procedure;
- Summary Resolution in accordance with paragraph 2.5 of this Procedure
- This should only be used if this is also agreed unanimously by the Chairman and Independent Person

2.2.4. It is likely that no action will be taken in the following (non-exhaustive) circumstances:

- Where there is insufficient information upon which to base a decision;
- A significant amount of time (typically more than 6 months) has elapsed since the events which are the subject of the complaint;
- The issue complained of in relation to the particular Subject(s) have already been considered under this Procedure;
- The complaint appears to be politically motivated, trivial, vexatious, tit for tat, repetitious or otherwise a general misuse of this Procedure;
- The conduct occurred at a time when the Subject was not or could not have been considered to be acting in their official capacity (as defined by the Code of Conduct);
- The complaint concerns someone who is no longer a Councillor; and
- The complaint is essentially against the Council as a whole and should not be directed at an individual.

2.2.5. Where it is appropriate to take some action and depending on the nature of the concerns raised it may be possible to resolve complaints informally and without the need for formal determination and/or sanction. The view of both the complainant and the Subject will be sought and will most likely be

appropriate in circumstances where the concerns raised are not in dispute and/or are not of a serious nature.

- 2.2.6. Where following informal action the complainant's concerns are not resolved, they may submit a request in writing for reconsideration by the Monitoring Officer. Where the Subject or Fenland District Council makes a reasonable offer of informal resolution but the person complaining is not willing to accept that offer, the Monitoring Officer will take account of this in deciding what if any further action to take. Where appropriate, the Monitoring Officer may again consider the options under paragraph 2.2.3 of this procedure.
- 2.2.7. Where a Police or other regulatory investigation is necessary, no further action will be taken by the Monitoring Officer until that procedure has been concluded and/or it is appropriate to do so. The Monitoring Officer has the power to make such a referral and must do so in all circumstances in which a criminal and/or regulatory offence may have occurred.
- 2.2.8. In all circumstances the Monitoring Officer will give a summary of the reasons for the decision in the form of a Decision Notice.

2.3. Referral for Investigation

- 2.3.3. The Monitoring Officer, in consultation with the Chairman and Independent Person, will take a decision as to whether a formal investigation is required and will take into account the following (non-exhaustive factors):
- Whether there is enough evidence to make a decision without the need for investigation;
 - Whether the allegations amount to a potential breach of the Code;
 - The seriousness of the allegations;
 - Whether it is in the public interest to investigate.
- 2.3.4. Where a formal investigation is required, the Monitoring Officer, in consultation with the Chairman and Independent Person will determine the level and scope of the investigation.
- 2.3.5. The Investigating Officer may be an officer of Fenland District Council, another Council or an appropriate experienced external investigator.
- 2.3.6. The Monitoring Officer will inform the complainant and the subject(s) of the complaint of the proposed timescales of the investigation which will most likely involve interviewing them and other witnesses as well as reviewing any relevant paperwork. Unless exceptional circumstances exist every effort should be made to ensure that the investigation is completed within 3 months of the referral.
- 2.3.7. In the event of a material change of circumstances the Monitoring Officer in consultation with the Chairman and Independent Person may terminate the investigation before it has concluded. Examples of when this may be appropriate are as follows:

- The Member has resigned (or not been re-elected) from the relevant Council, Town or Parish Council,
- The Member is seriously ill, or
- The Member has died.

2.3.8. If the Subject fails to respond to correspondence from the Investigating Officer the complaint will be progressed and concluded in the absence of their input. If the complainant fails to respond, the complaint will be treated as withdrawn subject to paragraph 2.1.10 above. All parties are encouraged to respond promptly to any correspondence in relation to the complaint and within any deadline set.

2.3.9. The Investigating Officer will prepare a draft report on the outcome of the investigation and will provide the complainant and Subject with a copy for review and comment within an agreed period. 2.3.10. The Investigating Officer will submit a final version of the report to the Monitoring Officer as soon as reasonably practicable once the deadline for providing comments in accordance with paragraph 2.3.9 has elapsed. The Investigating Officer will be expected to give their view of the evidence and whether or not a breach of the Code of Conduct has occurred.

2.3.11. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

2.4. **Consideration of the Investigation Report**

2.4.3. The Monitoring Officer will review the Investigating Officer's report in consultation with the Chairman and Independent Person and will reach a determination as to what if any further action is required within 7 working days of receiving the Report.

2.4.4. Where the Investigating Officer concludes that there is no evidence of a breach of the Code and the Monitoring Officer, Chairman and Independent Person are in agreement, the final report will be sent to the Complainant, the Subject and the Clerk (if appropriate) with confirmation that no further action will be taken.

2.4.5. Where the Investigating Officer concludes that there is evidence of a breach of the Code and the Monitoring Officer, Chairman and Independent Person are in agreement, they will then either seek a summary resolution or refer the matter for hearing by the Conduct Committee.

2.5. **Summary Resolution**

2.5.3. The Monitoring Officer may consider that a complaint can be reasonably resolved without the need for a hearing. In that event they will consult with the Chairman, Independent Person and the complainant with a view to agreeing a fair outcome. Such outcomes include the Subject offering an apology, removing posts from social media, attending training and/or mediation.

2.5.4. If the Subject accepts and complies with the suggested resolution no further action will be taken.

2.5.5. Where the Subject refuses to accept the suggested resolution, the matter will be referred to the Hearing Panel of the Conduct Committee for a hearing.

2.6. Referral to the Hearing Panel

2.6.3. If the Monitoring Officer considers that a summary resolution is not appropriate, or it is impossible to achieve, the matter will be referred to the Conduct Committee for a hearing to decide whether the Subject has failed to comply with the Code of Conduct and, if so, what if any action to take. Whilst they remain in force, the Virtual Meetings Procedure Rules will apply to meetings of the Conduct Committee alongside the Hearing Panel Procedure Rules. Where there is a conflict in interpretation of both sets of Rules, the Virtual Meetings Procedure Rules will prevail.

3. HEARING PANEL PROCEDURE RULES

3.1. Attendance and Right to be Accompanied

3.1.3. The Subject will be requested to attend the hearing and may choose to be accompanied and/or represented by a fellow Councillor, friend, colleague or legal representative (“the Representative”). The hearing will be arranged taking into account the availability of the Subject and their Representative(s) unless this is likely to cause unreasonable delay to the conclusion of the complaint.

3.1.4. The Complainant will be notified of the date of the hearing however, unless the Investigating Officer wishes to call them as a witness, there will be no requirement for them to attend.

3.1.5. An Independent Person must be present at the hearing and unless this will cause unreasonable delay to the conclusion of the complaint, this will normally be the same person that the Monitoring Officer has consulted throughout the process.

3.1.6. Where the subject of the complaint fails to attend the hearing the Hearing Panel may, having regard to any written representations:

- resolve to proceed with the hearing; or
- adjourn the hearing to another date.

3.2. The Hearing

3.2.3. Order of Business

3.2.3.1. Subject to paragraph 3.2.3.8 below, the order of business will be as follows:

3.2.3.2. Elect a Chairman (if either the Chairman or Vice-Chairman of the Conduct are not present);

- 3.2.3.3. Apologies for absence;
- 3.2.3.4. Declarations of Interest;
- 3.2.3.5. In the absence of the Subject, consideration as to whether to adjourn or to proceed with the hearing in accordance with paragraph 3.2.3.9 below;
- 3.2.3.6. Introduction by the Chairman of the persons present and participating in the hearing to include members of the Panel, the Independent Person, the Monitoring Officer, the Investigating Officer, the complainant, the subject of the complaint and any legal representatives;
- 3.2.3.7. To receive representations from the Monitoring Officer and/or the Subject as to whether any part of the hearing should take place in private and/or whether any documents (or parts thereof) should be withheld from the public/press in accordance with Schedule 12A of the Local Government Act 1972;
- 3.2.3.8. The Chairman may exercise their discretion and amend the order of the business where it is considered expedient to do so in order to ensure that a fair hearing takes place.
- 3.2.3.9. The Hearing Panel may resolve to adjourn the hearing at any time.

3.2.4. Presentation of the Complaint

- 3.2.4.1. The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points should be introduced at this stage in the process;
- 3.2.4.2. The Subject or their Representative may question the Investigating Officer and any witnesses called by them;
- 3.2.4.3. The Hearing Panel may question the Investigating Officer and any witnesses called by them.

3.2.5. Presentation by the Subject of the Complaint

- 3.2.5.1. The Subject of the complaint or their Representative presents their case and calls witnesses.
- 3.2.5.2. The Investigating Officer may question the Subject and any witnesses called by them. The Subject will normally be expected to answer questions on their own behalf rather than via the Representative.
- 3.2.5.3. The Panel may question the Subject and any witnesses called by them.

3.2.6. Summing Up

- 3.2.6.1. The investigating Officer sums up the complaint.
- 3.2.6.2. The Subject or their Representative sums up their response.

3.2.7. Views/Submissions of the Independent Person

- 3.2.7.1. The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented there has been a breach of the Code of Conduct.

3.2.8. Deliberations of the Hearing Panel

- 3.2.8.1. The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by the Monitoring Officer where required) to consider whether or not the Subject has failed to comply with the Code of Conduct.
- 3.2.8.2. The Independent Person may retire with the Hearing Panel and contribute to the discussion but will not be a decision maker.
- 3.2.8.3. The Hearing Panel may at any time reconvene the hearing in order to seek additional evidence from the Investigating Officer, the Subject and/or their witnesses.
- 3.2.8.4. If the Hearing Panel require additional information which cannot be obtained by the persons present at the hearing they may resolve to adjourn and issue directions specifying what they require from whom. Any information requested must not have the effect of introducing new points.
- 3.2.8.5. Where the hearing is adjourned in accordance with paragraph 3.2.8.4 above:
- 3.2.8.6. any additional information provided will be copied to the Investigating Officer, the complainant and the Subject within 5 working days of the reconvened hearing; and
- 3.2.8.7. at that hearing, there will then be an opportunity for each of the parties to make verbal or written representations in relation to the additional information. Where appropriate the Hearing Panel will also provide an opportunity for the parties to ask questions of each other and sum up their position in relation to the additional information before again retiring to deliberate.

3.3. **The Decision**

- 3.3.3. The Hearing Panel will reconvene the hearing at the conclusion of their deliberations and the Chairman will announce whether or not on the facts found, it is considered that there has been a breach of the Code of Conduct.
- 3.3.4. Where the Hearing Panel finds that there has been a breach of the Code of Conduct the Chairman will invite the Investigator, the Subject, the Independent Person, and the Monitoring Officer to make any representations as to whether or not any sanctions should be applied and if so, what form they should take.
- 3.3.5. When deciding whether to apply one or more sanctions, the Hearing Panel will ensure it is reasonable and proportionate to do so. The Hearing Panel will consider the following questions along with any other relevant circumstances or factors specific to the local environment to include (but not exhaustively):
 - What was the subject of the complaint's intention and did they know they were failing to follow the Code of Conduct;
 - Did the subject of the complaint receive advice from officers before the incident and was that advice acted on in good faith;

- Has there been a breach of trust;
- Has there been financial impropriety e.g. improper expense claims or procedural irregularities;
- What was the result/impact of failing to comply with the Code of Conduct;
- How serious was the incident;
- Does the Subject accept that they were at fault;
- Did the Subject apologise to the complainant or other relevant persons;
- Has the subject of the complaint previously been reprimanded or warned for similar misconduct within the last 12 months;
- Has the Subject previously breached the Code of Conduct within the last 12 months;
- Is there likely to be a repetition of the incident.

3.3.6. Having heard the representations of the Independent Person, the Subject and the Monitoring Officer, the Hearing Panel will adjourn and deliberate in private to reach a decision as to the sanctions to be applied. The Hearing Panel may be accompanied by the Monitoring Officer and the Independent Person who again may contribute to the discussion but will not take part in the decision.

3.3.7. The Hearing Panel will make its decision on the balance of probabilities based on the evidence before it at the hearing.

3.3.8. Where there is more than one complaint, the Hearing Panel will set out the reasons for their decision in relation to each aspect but may impose a separate or collective sanction or recommendation.

3.3.9. If evidence presented to the Hearing Panel highlights other potential breaches of the Code of Conduct then the Chairman will outline the concerns identified and recommend that the matter is referred to the Monitoring Officer as a new complaint.

3.4. **Announcement of the Decision**

3.4.3. The Hearing Panel will reconvene the hearing and the Chairman will announce:

3.4.4. the decision as to whether or not the Subject has failed to comply with the Code of Conduct and the principal reasons for the decision;

3.4.5. the sanctions (if any) to be applied;

3.4.6. the recommendations (if any) to be made to the relevant authority or Monitoring Officer;

3.4.7. that there is no right of appeal against the Hearing Panel's decision.

3.5. **Public Record**

3.5.3. The Monitoring Officer will arrange for the Decision Notice to be published with the Minutes on the Council's website.

3.6. **Range of Possible Sanctions**

3.6.3. Where the Hearing Panel determines that the Subject has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied:

- Report its findings to Full Council for information;
- Issue a formal Letter of reprimand;
- Recommend to the Subject's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to Council to remove the Subject from all outside appointments to which they have been appointed or nominated by the authority;
- Recommend to Council that it withdraws facilities provided to the Subject by the Authority such as a computer, website and/or email and internet access;
- Recommend to the Council that it excludes the Subject from the Council's office or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- Offer additional training for the Subject.
- Publication of formal notification of breach in a newspaper circulating in the area.

3.6.4. The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' allowances however, this Hearing Procedure should be read in conjunction with the legislation as it exists at the time its decisions are taken and where additional sanctions are prescribed by law, they will be available to the Hearing Panel as if they formed part of this Procedure. The Monitoring Officer will then make the necessary arrangements to amend the Hearing Procedure at the next scheduled meeting of Full Council.

4. **APPEALS**

4.1. There are no direct rights of appeal against the decisions of the Monitoring Officer or the Conduct Committee. If the complaint has not been resolved to the satisfaction of the complainant they are entitled to raise the issue with the Local Government Ombudsman

RULE 10 CORPORATE GOVERNANCE COMMITTEE RULES

1. STATEMENT OF PURPOSE

- 1.1 The purpose of the Corporate Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Authority's financial and non financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

2. GENERAL ROLE

- 2.1 Within their terms of reference, the Corporate Governance Committee will:
- (a) Consider the effectiveness of the Authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
 - (b) Seek assurance that action is being taken on risk related issues identified by auditors and inspectors.
 - (c) Be satisfied that the Authority's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and actions required to improve it.
 - (d) Approve (but not direct) internal audit's strategy, plan and monitor performance.
 - (e) Review summary internal audit reports and the main issues arising and seek assurance that action has been taken where necessary.
 - (f) Receive the annual report of the Internal Audit and Risk Manager
 - (g) Consider the reports of external audit and inspection agencies.
 - (h) Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
 - (i) Review the financial statements, external auditor's opinion and reports to Members, and monitor management action in response to issues raised by external audit.

3. TERMS OF REFERENCE

3.1 Audit Activity

- (a) To consider the Internal Audit and Risk Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- (b) To consider summaries of specific internal audit reports as appropriate.
- (c) To consider reports in relation to the management and performance of the providers of internal audit services.
- (d) To consider where necessary a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- (e) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- (f) To consider specific reports as agreed with the external auditor.
- (g) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (h) To liaise with the Audit Commission over the appointment of the Council's external auditor.

3.2 Regulatory Framework

- (a) To maintain an overview of the Council's Constitution and to review the constitution as necessary and to make recommendations to Council in respect of consequent revisions.¹⁰
- (b) To review any issue referred to it by the Chief Executive or a Chief Officer, or any Council body.
- (c) To monitor the effective development and operation of risk management and corporate governance in the Council.
- (d) To monitor Council policies on "Public Interest Disclosure" and the anti-fraud and anti-corruption strategy and the Council's complaints process.

¹⁰ Amended 22nd June 2006

- (e) To oversee the production of the Authority's Statement on Internal Control and to recommend its adoption.
- (f) To consider the Council's arrangement for Corporate Governance and agreeing necessary actions to ensure compliance with best practice.
- (g) To consider the Council's Compliance with its own and other published standards and controls.

3.3 Accounts

- (a) To review the annual Statement of Accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (b) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

4. MEMBERSHIP OF THE CORPORATE GOVERNANCE COMMITTEE

- 4.1 There shall be a maximum of 9 members of the Council on the Corporate Governance Committee with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. Up to three members from Cabinet and three members of the Overview and Scrutiny Panel may be members.¹¹

5. CO-OPTEEES

- 5.1 The Corporate Governance Committee shall be entitled to appoint up to 3 people at any one time as non-voting co-optees. The Committee shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items.

6. MEETINGS OF CORPORATE GOVERNANCE COMMITTEE

- 6.1 There shall be no more than 6 ordinary calendar meetings of the Corporate Governance Committee and, whilst they are in force, the Virtual Meetings Procedure Rules will apply. In addition extraordinary meetings may be called from time to time as and when appropriate.

¹¹ Amendment approved 11th May 2017

- 6.2. The Corporate Governance Committee meeting may be called by the respective Chairman of the Committee, by any three members of the Committee, by the Chief Executive or by the Director of Finance.

7. ACTIONS FROM THE CORPORATE GOVERNANCE COMMITTEE

- 7.1 Once it has formed recommendations on proposals for development, the actions in the minutes shall be distributed to the relevant senior officers of the Council for action.
- 7.2 The Corporate Governance Committee shall approve decisions in accordance with its powers delegated by Council and in accordance with its terms of reference

8. QUORUM

- 8.1 The quorum for the Corporate Governance Committee shall be as set out for committees, in the Council Procedures Rules at Part 4 of the Constitution.

9. CHAIRMAN AND VICE-CHAIRMAN OF THE CORPORATE GOVERNANCE COMMITTEE

- 9.1 The Chairman and Vice-Chairman of the Corporate Governance Committee will be drawn from among the Councillors sitting on the panel and subject to this requirement and that of 4.1 above, the panel may appoint such persons as it considers appropriate as Chairman and Vice-Chairman.

10. WORK PROGRAMME

- 10.1 The Corporate Governance Committee will be responsible for setting its own work programme and in doing so shall take into account the wishes of all members on the panel irrespective of political affiliation.

11. AGENDA ITEMS

- 11.1 Any member of the Corporate Governance Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
- 11.2 Any five members of the Council who are not members of the Corporate Governance Committee may give written notice to the Chief Executive that they wish an item relevant to the functions of the Committee to be included on the agenda. If the Chief

Executive receives such a notification, then he/she will include an item on the first available agenda for consideration by the Committee. The members will be entitled to appoint a spokesperson to attend the meeting at which the item is to be discussed and the member may speak on the issue but may not vote.

12. PROCEDURE AT THE CORPORATE GOVERNANCE COMMITTEE MEETINGS

12.1 The Corporate Governance Committee shall consider the following business:-

- (a) apologies for absence;
- (b) minutes of the last meeting;
- (c) declarations of interest;
- (d) the business otherwise set out on the agenda for the meeting.

PART 5

CODES AND PROTOCOLS

- 1 Code of Conduct for Members
- 2 Local Code of Conduct on Planning Matters
- 3 Local Code of Conduct on Local Plan Process
- 4 Code of Conduct for Employees
- 5 Protocol for Member/Officer Relations
- 6 Protocol on Open Government

CODE 1 CODE OF CONDUCT FOR MEMBERS¹

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should borne in mind when interpreting the meaning of the Code:-

- i **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- ii **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- iii **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- iv **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii **Leadership** Holders of public office should promote and support these principles by leadership and example.

PART 1 GENERAL PROVISIONS

1. Introduction and interpretation

- 1.1. This Code applies to **you** as a member of Fenland District Council (Fenland).
- 1.2. The term "**the Authority**" used in this Code refers to Fenland.
- 1.3. "**Member**" means any person being an elected or co-opted member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.

¹ New code adopted 26th July 2012

1.5. In this Code –

“**Meeting**” means any meeting of:-

- a) The Authority;
- b) Any meetings with the Council’s officers;
- c) Any of the Authority’s Committees, sub-committees, joint committees, joint sub-committees, or area committees including any virtual meetings;
- d) Any site visits to do the business of the Authority;
- e) Any of the Authority’s advisory groups and, working parties and panels.

1.6. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

2. Scope

2.1. You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority.

2.2. Where you act as a representative of the Authority:-

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

3.1. You must treat others with respect.

3.2. You must not:-

- (a) do anything, which may cause the Authority to breach UK equalities legislation.
- (b) bully any person.
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority’s code of conduct.

- (d) do anything, which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
 - (e) conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute.
4. You must not:-
- 4.1. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-
 - (a) you have the consent of a person authorised to give it;
 - (b) you are required by law to do so;
 - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is:-
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the authority.
 - 4.2. prevent another person from gaining access to information to which that person is entitled by law.
5. You must not:-
- 5.1. use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage.
6. You must:-
- 6.1. when using or authorising the use by others of the resources of the Authority:-
 - (a) act in accordance with your Authority's reasonable requirements;
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - 6.2. have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

PART 2 INTERESTS

7. Disclosable Pecuniary Interests

7.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions.

7.2. You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State (Appendix A) and either:

- (a) it is an interest of yours, or
- (b) it is an interest of:
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you were civil partners,

and you are aware that that other person has the interest.

8. Registration of Disclosable Pecuniary Interests

8.1. Subject to paragraph 12 (sensitive interests), **you must**, within 28 days of:

- (a) this Code being adopted or applied by the Authority; or
- (b) your election or appointment (where that is later),
notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests you have at that time.

8.2. Subject to paragraph 12 (sensitive interests), **you must**, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new Disclosable Pecuniary Interest or change.

9. Disclosable Pecuniary Interests in matters considered at meetings

9.1. If you attend a meeting ([including any virtual meeting](#)) and have and are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at that meeting, –

- (a) **you must disclose** to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. **If you have not already done so, you must notify the Authority's Monitoring Officer** of the interest before the end of 28 days beginning with the date of the disclosure, and
- (b) whether the interest is registered or not you **must not** – unless you have obtained a dispensation from the Authority's Monitoring Officer –
 - (i) participate, or participate further, in any discussion of the matter or vote at the meeting; or
 - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

Note: Council Procedure Rule 13 requires you to leave the room where the meeting is held ([or sever the means of remote attendance in the case of virtual meetings](#)) while any discussion or voting takes place.

10. **Other Interests**

- 10.1. In addition to the requirements of Paragraph 3, if you attend a meeting ([including any virtual meeting](#)) at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 10.2. You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where -
- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
 - (b) it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

11. **Sensitive interests**

- 11.1 Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraphs 8 9 and 10.

Note: Register of interests

Interests under paragraph 8 will be notified to the Monitoring Officer on a form approved for the purpose by the Monitoring Officer and for this purpose will be deemed the "register of interests". A copy of the register will be available for public inspection and will be published on the authority's website.

12 **Gifts and Hospitality**

- 12.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

Appendix A

Disclosable Pecuniary Interests

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to Disclosable Pecuniary Interests. These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

1 Notification of Disclosable Pecuniary Interests

<i>Disclosable Pecuniary Interest</i>	<i>description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land, which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial

interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions:

“the Act” means the [Localism Act 2011](#);

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land, which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“Member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the [Financial Services and Markets Act 2000](#) and other securities of any description, other than money deposited with a building society.

Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election
- Fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interest (without a dispensation)
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.

CODE 2 LOCAL CODE OF CONDUCT ON PLANNING MATTERS

References in this code to meetings of the Planning Committee shall include virtual meetings of the Planning Committee

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Lobbying

1. In most cases it should be possible for a member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.
2. Members who are lobbied on a planning matter before the Committee meets to consider it:
 - may listen to what is being said;
 - may give procedural advice (eg. to write to the Planning Department, the name of the Case Officer, the deadline for comments, whether the application is to be determined by the Planning Committee or the Development Control Manager, how decisions are reached through Officer recommendation/Planning e Committee);
 - should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;
 - should not express an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;
 - should make it clear that members will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;
 - should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to opposeor
 - support the application (or enforcement case or Local Development Framework proposal);
 - should not negotiate detailed planning matters with applicants, agents, objectors, etc;
 - should pass relevant correspondence to the Case Officer prior to any Committee meeting.

3. Members who have openly declared their voting intention (on a planning or any other application, enforcement case or Local Development Framework proposal) in advance of the relevant Committee meeting should declare their interest and not vote because they could be considered to have fettered their discretion. In those circumstances a member should not speak and vote as a member of the Planning Committee.

In such cases the member has been excluded not because of the code but because the member's previous actions have fettered his/her discretion and possibly laid the Council open to the objection that the planning process has been tainted.

4. To avoid impressions of improper influence which lobbying by members can create:
 - Members should avoid organising support for or opposition to a planning matter to be determined by the District Council, and should not lobby members of the Planning Committee - such actions can easily be misunderstood by parties to the application and by the general public;
 - Members should not put pressure on officers for a particular recommendation;
 - political group meetings should not discuss planning application matters;
 - members should not act as agents or advocates for planning applications or any other applications, enforcement cases or Local Development Framework proposals to be determined by the District Council. Where a member is involved in a particular planning matter, she/he should take care not to appear to try to influence other members, and should declare an interest at the relevant Committee meeting;
 - whenever a member is approached or lobbied on any particular application that member should distribute a standard acknowledgement letter/postcard which makes clear the neutral stance which members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting;
 - Members should not attend private site meetings at the request of the applicant.

Decisions contrary to officer recommendations or to Development Plan policies

5. The proposer of the motion to go against the officers' recommendation, or the Chairman, should state the planning reasons for the proposal before a vote is taken the Ombudsman has said that the reasons should be convincing and be material planning considerations.
6. The Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the reasons for the proposal are

planning matters and, if an approval is proposed, to recommend appropriate planning conditions.

7. If the decision could be contrary to the Local Development Framework, then the officer should comment on the extent to which the other planning considerations could be seen to override the Local Development Framework, and on whether the decision would be a significant departure from the Plan requiring reference to the Secretary of State.
8. A detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Local Development Framework, the minute should state that and clearly set out those planning considerations which override the Local Development Framework.
9. If a Committee wishes to amend or add conditions to an approval, then the wording should be decided at the meeting.

Approval of Repeat Applications for Development previously refused

10. The principles which can be distilled from Ombudsman cases are as follows:
 - there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
 - the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
 - the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:
 - insufficient weight has been given to officers' recommendations and Central Government guidance; and
 - there is failure to give and record reasons for the Authority's change of mind.
11. Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.
12. If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval before a vote is taken.

13. If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.

Parish or Town Council Membership

14. A member of the Planning Committee may also serve as a member of a Town or Parish Council, which makes representations about a planning application to be considered by the Planning Committee. If the member is present at a meeting of the Town or Parish Council (or one of its committees) when the attitude of the Town or Parish Council to the application is under consideration, he or she may take part in the discussion, . He or she may express any view on the application, but should ask for his or her membership of the District Council Planning Committee and the fact that before making any decision at District Council level, he or she will consider all relevant matters, to be recorded.
15. At Planning Committee, any Member who has expressed a view on the merits of an application at a meeting of a Town or Parish Council, should make this known, and should repeat that they will consider all relevant matters before coming to a decision.
16. Although the consultation response from a Parish/Town Council is a relevant consideration, members should not automatically defer to the Parish/Town Council view, because Parish/Town Councils do not have the advice of professional Planning Officers in reaching their decision.

The Role of Officers

17. To ensure that Committees give consideration to the Development Plan and other material considerations, Committee decisions on planning applications, enforcement cases and Local Development Framework proposals will normally be taken only after the Committee has received a written officer report. Written officer reports will reflect the collective view of the Department - not the view of the individual author.
18. Reports should be accurate and should:
 - cover, amongst other things, the substance of objections and the views of people who have been consulted;
 - include reference to relevant material and Local Planning policies and their implications for the case; the site or related history (where relevant) and any other material considerations;
 - have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;

- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
 - if the recommendation is contrary to the provisions of the Development Plan, clearly state the material considerations which justify this;
 - describe the purpose and content of any planning agreement or obligation proposed in association with the planning permission...
19. Officers must always act impartially. The Royal Town Planning Institute Code of Conduct says planners:
- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
 - shall act with competence, honesty and integrity;
 - shall fearlessly and impartially exercise their independent professional judgment to the best of their skill and understanding;
 - shall discharge their duty to their employers, clients, colleagues and others with due care and diligence;
 - shall not discriminate on the grounds of race, sex, sexual orientation, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity;
 - shall not bring the profession or the Royal Town Planning Institute into disrepute.
20. These guidelines should apply to all Planning Officers. A requirement for staff to act impartially is likely to be a requirement of the statutory employees' code.

The Role of Members

21. Whilst Members should take account of differing views, they should not favour any person, company, group or locality, nor put themselves in a position where they, appear to do so. Members who do not feel that they can act in this way should consider whether they are best suited to serve on a Planning Committee.
22. The District Council has adopted the new Model Code of Conduct including paragraph 12.2. This means that members who have a prejudicial interest may address the Committee in the same way that members of the public can, and answer any question put to them after which they must leave the room, before any voting takes place. Members may not remain to observe the meetings consideration even in the public gallery and should not attempt to improperly influence the decision.

23. In the event of connection failure between a member and the committee during a virtual planning committee meeting, the remote member(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to that member before the end of the meeting, the presumption shall be that the meeting should continue to deal with the item (s). If the connection is re-established, then the remote member will be deemed to have returned at the point of re-establishment, but the member who was disconnected cannot vote on the matter(s) under discussion during the period of disconnection.

The Basis for Planning Decisions

[243](#). It is the responsibility of officers in preparing reports and recommendations to members, and in advising Committees, to identify the material planning considerations and to ensure members are aware of those matters which are not material to planning decisions.

[254](#). Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the Development Plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the Development Plan. Section 54A of the Town and Country Planning Act says that planning decisions shall be made in accordance with the Development Plan, unless material considerations indicate otherwise.

[265](#). Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Regional Planning Guidance, Circulars' and Ministerial announcements;
- planning briefs and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

| 276. There is much case law on what are, and are not material planning matters. Planning matters must relate to the use and development of land. For example, the following are not normally planning matters and cannot be taken into account in planning decisions:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for officers of the Council to advise as to such rights);

- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

The Media

[287.](#) The principles of this Code also apply to press contact. Members and officers when commenting to the media on planning matters should:

- have regard to the points made in the section on lobbying;
- ensure that they do not give the -impression that they have pre-judged the planning application;
- make clear that members will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;
- for delegated applications, make clear that the Development Control Manager will retain an open mind until such time as the full facts are available and presented for decision.

[298.](#) Any officers can provide facts about a planning matter which are in the public domain and available to the media (see guidance note on the Local Government Act 1972). However, the media should be referred to the Development Control Manager for attributable comments.

Participation at Planning Committee

[3029.](#) The Planning Committee in coming to a decision on a particular planning application, will listen to and take account of representations made by local Town and Parish Councillors, local residents, objectors, applicants, planning agents, and non-Planning Committee District Councillors (in relation to applications in either their ward or adjacent wards) as well as other relevant information.

[310.](#) In order to efficiently and effectively manage the business of the Planning Committee and also to give equal opportunity to those people who wish to participate, the following procedure will apply:-

- Local Town or Parish Councillors, objectors, their representatives, applicants, their representatives, planning agents and non-Planning Committee District Councillors will be given five minutes in which to make

their representations to the Planning Committee. Where there is more than one participant in a given category for example, where there are two objectors who wish to participate, they will be limited to a maximum of five minutes in total. At a virtual meeting of the Planning Committee, in the event that the any participant is unable to make contact at the relevant time or such contact is broken the Member Services officer will read out any written representation (or the remainder of it as appropriate) submitted by that participant for the purposes of the Committee meeting.

- Local Town and Parish Councillors, objectors, their representatives, applicants, their representatives, and members of the public (either objectors or supporter), planning agents and non- Planning Committee District Councillors or others wishing to participate at Planning Committee must confirm their intention to participate in accordance with the guidance issued by the Council no later than noon on the day before the Planning Committee meeting, and in the case of a virtual meeting, those wishing to participate at the meeting should by the same deadline supply a written representation of their case, to be used in the event of any difficulty in establishing or maintaining a connection.-

324. The Chairman of the Planning Committee will remind participants of the timescales that apply and will indicate when the timescales have been reached

**CODE 3
CODE OF CONDUCT
ON
LOCAL PLAN PROCESS**

1. All members of the Council with a beneficial interest in land who wish to make proposals about that land or on other matters which affect that land will
 - make such proposals in writing;
 - indicate clearly by delineation on an ordnance survey map or equivalent the precise extent of their beneficial interest in the land.

2. If any member of the Council becomes aware of any proposals or expressions of interest in possible proposals for land in which they have a beneficial interest they will
 - not discuss such proposals either directly or indirectly with anyone;
 - direct any such matters to the relevant officers of the Council who will progress the matter in a way which will not leave members open to potentially justifiable accusations of breach of the code of conduct.

3. If any member of the Council becomes aware of such proposals or expressions of interest described above relevant to such beneficial interests held by friends, relatives, employers or close associates they will conduct themselves in the manner described above.

URGENT MEMBER DECISION RECORD

Cabinet Members:

Cllr Chris Boden, Leader of the Council and Portfolio holder for Finance

Part 3, Table 5, paragraph 9 of Fenland District Council's Constitution provides all portfolio holders, including the Leader, with delegated authority to take executive decisions on behalf of the Council in circumstances where the matter is urgent and provided that the Chairman of Overview and Scrutiny and a relevant representative of CMT agree.

Access to Information Procedure Rule 2, paragraphs 15 and 16 provide that in cases of urgency, the usual requirement to publish notice of a forthcoming key decision in the forward plan can be waived with the consent of the Chairman of Overview and Scrutiny.

Overview and Scrutiny Procedure Rule 5, paragraph 20 provides that the ordinary requirements with regard to the publication and call-in of executive decisions may be waived, with the agreement of the Chairman of Overview and Scrutiny in cases of urgency.

In all instances, urgency is defined as a situation in which a delay would seriously prejudice the Council's or the public interest.

In this instance, the Leader is exercising delegated authority to enter into an agreement with Wealden Leisure Limited (trading as Freedom Leisure) ("Freedom Leisure") to provide financial relief as a result of a change in law. In particular, at 2 p.m. on 21st March 2020, the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 ("the Regulations") came into force requiring all indoor fitness studios, gyms, swimming pools or other leisure centres to remain closed for a period of up to 6 months. As a consequence, Fenland District Council has negotiated a relief package with Freedom Leisure which is consistent with the provisions of its contract with them and government guidance. The relief package is required as a matter of urgency in order that Freedom Leisure is able to meet its ongoing financial obligations. The next meeting of Cabinet is scheduled to take place on 12 May 2020 however the relief sought must be delivered by 1st May 2020. Furthermore, given the proximity of the date of this decision to the required date of delivery, a waiver of the usual publication and call-in requirements is also required, including those in relation to the forward plan.

There is a contractual obligation to negotiate a financial relief package in circumstances where there has been a change in the law. Failure to deliver this within the requested timeframe will significantly impact upon Freedom Leisure's ability to meet its obligations and in maintaining its overall responsibilities to Fenland District Council.

	<p>The Council has also satisfied itself that the proposals are not inconsistent with State Aid requirements.</p> <p>Having regard to the above, and the overall impact of the COVID-19 crisis, the Leader considers that the circumstances giving rise to this decision are both exceptional and urgent and that a failure to act within the requested timeframe would seriously prejudice both the public's and the Council's interests.</p> <p>The Leader has discussed this with the Chairman of Overview and Scrutiny Panel as well as Carol Pilson, Corporate Director with responsibility for Leisure and Peter Catchpole, Corporate Director and Section 151 Officer who all agree and have signed this Decision Notice to that effect.</p> <p>The use of urgency powers in relation to the forward plan and waiver of call-in will be reported to the next meeting of Overview and Scrutiny Panel in compliance with constitutional requirements.</p>
<p>Subject of Decision:</p>	<p>The impact of Covid-19 and the resultant Regulations have had a profound and immediate impact on leisure services. Mandatory closure of leisure facilities resulted in income ceasing with effect from 16 March 2020. Freedom Leisure along with other like organisations has therefore been left with ongoing costs and no income to net them off against.</p> <p>As a consequence, Freedom Leisure has produced an evidence based request for immediate and urgent financial relief. The Leader, on behalf of the executive, has considered this request in consultation with the Portfolio Holder for Leisure and having taken appropriate legal, financial and industry specific advice is clear that the relief sought is in accordance with the Council's contractual obligations and the national position. The Council has also received assurances that Freedom Leisure is taking every available opportunity, on a continuing basis, to mitigate its position to include seeking relief from other clients and via the Job Retention Scheme. Equally, the Council will act on any opportunity for central government funding if it becomes available.</p> <p>The decision to be taken therefore is of an interim nature and concerns the question of whether the Council should grant the relief requested and if so, to authorise officers to complete the necessary legal and financial formalities required to implement the proposed arrangements.</p>
<p>Reason for the Decisions (specify all reasons for taking the decisions including where necessary reference to Council policy)</p>	<p>Freedom Leisure has requested urgent financial relief in accordance with the provisions of Fenland District Council's contract with them and in response to the impact of Covid-19 on leisure services. Providing the relief sought ensures the immediate sustainability of the contract on an interim basis whilst maintaining the opportunity for more detailed consideration of the longer term implications and plan for recovery.</p>


<p>Alternative Options Considered (if appropriate)</p>	<p>Whilst the contract remains in force and as a result of the change in law, the Council has an obligation to negotiate and agree an appropriate package of financial relief. It is foreseeable that as the impact of Covid-19 becomes clearer, it will become necessary to review the viability of the existing contractual arrangements to include termination however, we are not yet in a position of sufficient certainty to determine what would represent the best value outcome for the Council and its constituents. The Council also remains mindful of the significant benefits foreseen when it took the decision to enter into the Contract with Freedom Leisure and whilst it is clear that this needs to be kept under review, remains committed to achieving those results even if over what will inevitably now be a longer period.</p>
<p>Background/Reports/Information considered and attached (Legal, Personnel, Financial Implications etc)</p>	<p>The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020</p> <p>Portfolio Holder Briefing Paper</p> <p>LGA's Guidance Note regarding options for councils in supporting leisure providers through COVID-19.</p> <p><i>The following items were taking into account but are considered by the Leader to be exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 because they contain information about the financial and business affairs of the Council and Wealdon Leisure Limited.</i></p> <p>Revised LOBTA provided by Freedom Leisure in support of their request for financial relief.</p> <p>Agreement with Wealdon Leisure Limited dated 24 October 2018.</p>
<p>Decision:</p>	<p>In the exercise of his urgency powers, The Leader of the Council, on behalf of the executive, has agreed as follows:</p> <ol style="list-style-type: none"> 1. An interim relief package payable to Freedom Leisure for the months of April and May 2020 with the option to extend for the month of June 2020 on the terms set out below and whilst more detailed consideration is given to the longer-term position: <ul style="list-style-type: none"> - To defer the monthly management fee of £37,560, such sum then becoming repayable on a monthly basis at a rate to be agreed between years 5 and 15 of the contract; - An interest free loan of £48,011 per month with the payments for April and May to be made on 1st May 2020. This loan to become repayable in the event that Freedom Leisure cease to trade or invoke a force majeure clause or any other clause which has the effect of terminating the agreement. Where neither event occurs, on 31st March 2022 the loan shall become an unrepayable grant.

- Staffing costs of £6,985 per month to cover ongoing costs in relation to essential staffing requirements with the payment for April and May to be made on 1st May 2020.

2. Where, following discussion with Freedom Leisure on an open book basis, the Leader, in consultation with the Portfolio Holder for Leisure and s.151 Officer agree, to exercise the 1 month extension referred to and on the same terms as set out in paragraph 1 above with all appropriate payments being made by no later than 1st June 2020.

3. To delegate to the s.151 and Monitoring Officers authority to finalise and put in place the necessary legal and financial documentation to bring into effect the arrangements and resultant payments set out at paragraphs 1 and 2 above.

Signature & date:



1/5/20

**Cllr Chris Boden
Leader and Finance Portfolio Holder**

Signature & date: 30.04.20



**Cllr Alex Miscandlon
Chairman of Overview & Scrutiny Panel**

Signature & date: 01.05.20



**Carol Pilson
Corporate Director and Monitoring Officer**

Signature & date:



1/5/20

**Peter Catchpole
Section 151 Officer**

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OFFICER DECISION RECORD

<p>CMT Officer: Carol Pilson, Monitoring Officer</p>	<p>Delegated Power Being Exercised:</p> <p>Part 3, Table 4, Functions delegated to officers: Monitoring Officer, Paragraph 47, Page F19 of the Constitution.</p> <p>To amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council (in respect of any nonexecutive function) or the Cabinet in respect of any executive function. Decisions made or action taken in relation to amendments, which are not subsequently ratified, by the Council or Cabinet remain lawful.</p>
<p>Subject of Decision:</p>	<p>Following the Monitoring Officer exercising her delegated power (as above) to bring the Virtual Meetings Procedure Rules into effect on 30th April 2020 a review has been undertaken in discussion with Group Leaders and one further amendment made.</p> <p>In particular the original version of the Virtual Meetings Procedure Rules specified as follows:</p> <p>“5 Questions By Members</p> <p>5.1 <u>Portfolio Holder’s Briefing Report (“PHB”)</u></p> <p>Save in respect of the 2020/21 Annual Meeting, Cabinet Members will continue to take questions from members in relation to the PHB however these must be presented in writing via the Chief Executive no later than the third working day before the date of the meeting. A copy of the questions will be circulated electronically and published on the Council’s website. The Chairman will invite each member to read out their question and the relevant cabinet member will then respond.”</p> <p>By virtue of this Decision Notice, the wording of the Virtual Meeting Procedure Rules will instead now read:</p> <p>5 Questions By Members</p> <p>5.1 <u>Portfolio Holder’s Briefing Report (“PHB”)</u></p> <p>Save in respect of 2020/21 Annual Meeting, the Council will continue to take written questions in accordance with the ordinary procedure set out in the Constitution.</p> <p>This has the effect of reinstating the ordinary arrangements in respect of questions to Cabinet Members such that there will no longer be a notice requirement and the Constitution will also be updated to reflect that.</p>

<p>Reason for the Decisions (specify all reasons for taking the decisions including where necessary reference to Council policy)</p>	<p>The Monitoring Officer is responsible for ensuring the overall good governance of the Council. As part of this, the Monitoring Officer has delegated authority to make changes to the Constitution which are necessary to reflect changes in the law or to ensure the convenient and effective discharge of council functions.</p> <p>The Virtual Meetings Procedure Rules and associated amendments to the Constitution were designed to implement legislative changes and to ensure that council functions could continue to be conveniently and effectively discharged. However, as members and officers have continued to gain experience at hosting and participating in virtual meetings, the arrangements have and will continue to be kept under review so that the procedure is as closely matched to the Standing Orders as can reasonably be achieved.</p> <p>Having regard to the above, the Monitoring Officer is empowered to make the necessary changes described and will present them for ratification as required at the next Full Council meeting.</p>
<p>Alternative Options Considered (if appropriate)</p>	<p>The only alternative to the option is that the Virtual Meetings Procedure Rules and associated changes to the Constitution remain unchanged. This option has been disregarded as it is now possible to revert to the ordinary arrangements for cabinet member questions.</p>
<p>Background/Reports/Information considered and attached (Legal, Personnel, Financial Implications etc)</p>	<p>The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020</p> <p>LLG Model Guidance Virtual Meetings Procedure Rules Updated sections of the Constitution</p>
<p>Decision:</p>	<p>Having taken appropriate legal advice and following discussion with Group Leaders, the Monitoring Officer has taken the following decision:</p> <ul style="list-style-type: none"> - To amend the Virtual Meetings Procedure Rules so as to reinstate the ordinary arrangements under Rule 8.2; and - To arrange for Member Services to update the Constitution to reflect the changes necessary to bring this into effect; - To publish the final versions of the above documents on the Council's website; - To present this as a late addition to the Report that is due for consideration by Full Council on 17th June 2020 so that all of the changes may be ratified together.

Signature & Date:



**Carol Pilson
Monitoring Officer**

Date: 16.06.2020

Signature & Date:



**Cllr Chris Boden
Leader and Finance Portfolio Holder**

Date: 17/6/20.

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