



# Meeting of the City Council

## 4 June 2014

<b>Report title</b>	Changes to the Constitution	
<b>Referring body</b>	Standards Committee, 1 May 2014	
<b>Councillor to present report</b>	Cllr Bert Turner	
<b>Wards affected</b>	n/a	
<b>Cabinet Member with lead responsibility</b>	n/a	
<b>Strategic director</b>	Keith Ireland, Delivery	
<b>Originating service</b>	Democratic Services	
<b>Contact employee(s)</b>	Martyn Sargeant	Head of Democratic Services 01902 555043 <a href="mailto:martyn.sargeant@wolverhampton.gov.uk">martyn.sargeant@wolverhampton.gov.uk</a>
<b>Report to be/has been considered by</b>	Standards Committee Special Advisory Group	1 May 2014 24 April 2014

### Recommendation(s) for action or decision:

The Council is recommended to approve the revisions to the Constitution, specifically:

- (1) To revise the petitions protocol.
- (2) To amend the Council procedure rules.
- (3) To reissue the recording and filming of meetings protocol, to include provisions in relation to social media.
- (4) To delegate responsibility to strategic directors for approval of overseas trips by employees, where there are no costs to the Council.
- (5) To move responsibility for most housing support services from Community directorate to Education and Enterprise.
- (6) To amend the delegations to the Audit Committee.
- (7) To remove references to shadow chairs.
- (8) To change the arrangements for hearing human resources appeals.
- (9) To approve the inclusion of a new Planning Code of Conduct.
- (10) To change the mechanism for appointing to the office of Deputy Mayor and Mayor.
- (11) To amend the terms of reference for the Special Advisory Group.

## **1.0 Purpose**

- 1.1 This report seeks support for a number of changes to the Constitution, all of which have been previously reviewed and supported by both the Special Advisory Group and the Standards Committee.

## **2.0 Background**

- 2.1 As part of the iterative approach to maintaining the Constitution, the Constitution Review Group has highlighted a number of changes that need to be made. Some of these are in relation to operational changes within the Council's structures, others reflect changes in regulations and guidance, whilst others simply reflect refinements borne out of experience. As is the Council's normal practice, the proposed changes have been reviewed first by the Special Advisory Group and then by the Standards Committee.

## **3.0 Changes to the Constitution**

### **Petitions protocol**

- 3.1 The experience of both Councillors and petitioners in the consideration of petitions over the past year has highlighted a number of areas where the existing protocol could be refined, particularly to ensure clarity of process. The draft changes were reviewed and supported by the Council Meetings and Public Engagement Advisory Group. The revised protocol is attached as appendix A to the report.

### **Council procedure rules**

- 3.2 As with the petitions protocol, the procedure rules for the conduct and management of Council meetings have been amended to ensure clarity of process. A copy of the proposed amendments is attached as appendix B.

### **Filming and recording protocol**

- 3.3 Since the existing protocol was last reviewed, there has been a significant amount of publicity relating to the issue of, particularly, members of the public filming or recording during public meetings. This has triggered guidance from the Department for Communities and Local Government providing a clear expectation that such activity should be permissible, even encouraged, within the bounds of reasonable propriety. The protocol has been updated in the light of this, to provide guidance for the public about what is acceptable and to enable Councillors, particularly chairs of committees, to manage meetings appropriately.
- 3.4 Over the same period, there has also been a significant increase in the volume of social media activity. The Council itself has increased its Facebook and Twitter output in relation to key meetings. The protocol has been amended to reflect these changes.

- 3.5 The revisions to the protocol were reviewed and supported by the Council Meetings and Public Engagement Advisory Group. A copy of the proposed amendments is attached as appendix C.
- 3.6 The Special Advisory Group highlighted the importance of providing guidance about filming minors and an additional paragraph was included (see paragraph viii).

### **Approval of overseas trips by employees**

- 3.6 Overseas trips by employees are currently approved by an individual Executive decision by the relevant Cabinet member. A number of such trips involve no cost to the Council (usually where the trip is funded through a grant from a third party, e.g. the European Union). In order to streamline the decision-making process, it is proposed that such decisions should be made in future under strategic directors' delegated authority. This has therefore been included in the appropriate section of the Constitution (Delegations to Chief Executive and all Strategic Directors – see below).

	<b>Function</b>	<b>Limits or restrictions on delegation</b>
B16	Approval for overseas trips by employees.	Where there is no cost to the Council (i.e. funded by a third party).

- 3.7 Approval of trips where there is a cost to the Council will continue to require individual Cabinet member approval.

### **Responsibility for housing support services**

- 3.8 Responsibility for these services currently sits across two portfolios: Economic Regeneration and Prosperity and Adult Services. Discussions between the two directorates (Education and Enterprise, and Community), which have included the two Cabinet members, has resulted in an agreement to transfer most housing support services to sit together with the strategic housing function already overseen in Economic Regeneration and Prosperity.
- 3.9 Amendments have been made to the Constitution to reflect these changes, specifically to section two of appendix one (Delegations to the Cabinet) and to sections 20D (Delegations to the Strategic Director, Community) and 20F (Delegations to the Strategic Director, Education and Enterprise). These changes do not include any new or changed responsibilities, simply transfers between portfolios/directorates.

### **Delegations to the Audit Committee**

- 3.10 Following new guidance, the Audit Committee has reviewed its terms of reference and the delegations in the Constitution have been amended accordingly. The changes also reflect the dissolution of the Final Accounts – Monitoring and Review sub-committee,

which is no longer considered necessary, with its work being assumed by the main committee.

### **References to shadow chairs**

- 3.11 At its meeting on 18 December 2013, the Council made a number of changes to the schedule of responsibility allowances for Councillors. This included ending the arrangement of appointing shadow chairs to certain committees. In light of this, references to shadow chairs have been removed from the Constitution.

### **Changes to arrangements for hearing human resources appeals**

- 3.12 Changes are proposed to the way in which human resources appeals are considered. Therefore, with effect from the Annual Council meeting, the existing appeals panel will be dissolved and new arrangements will be implemented. The draft Constitution has been amended to reflect this.
- 3.13 At the time of writing, final proposals for replacement arrangements were being prepared for consideration by the Special Advisory Group and then submission to Cabinet for approval.

### **Revised Planning Code of Conduct for Councillors and employees**

- 3.14 The Council already has in place a Planning Code of Conduct which was based on the Note on Probity issued by the Local Government Association, in addition to the National Code of Conduct, following the development of national legislation on standards.
- 3.15 The Localism Act 2011 and associated regulations introduced a new standards regime and in light of that the Council has in place a local Code of Conduct and a Standards Committee. The revised Planning Code of Conduct is additional to the Council's Code of Conduct. The revised Planning Code of Conduct specifically relates to the operation of the planning regime and more particularly to Planning Committee. It is entitled the Planning Code of Conduct so as to differentiate it from the Council's Code of Conduct.
- 3.16 Some of the changes made by the Localism Act 2011 and associated regulations relate to the changes from personal and prejudicial interests and the introduction of disclosable pecuniary interests. Issues relating to predetermination have also moved on since the current Planning Code of Conduct was adopted. The revised guide has been drafted to take into account the up to date position in relation to all relevant matters. A copy of the code of conduct is attached as appendix D to the report.
- 3.17 Some aspects of the existing Planning Code of Conduct remain the same such as the provisions relating to site visits and party whip.

## **Changes to the appointment arrangements for Mayors and Deputy Mayors**

- 3.18 Traditionally, the office of Mayor has been offered to Councillors according to seniority (based on length of service) but with a mechanism to allow for rotation between the political groups. From 2015, it is proposed that it will be based solely on length of service, irrespective of political affiliation and that previous office holders will only be eligible for consideration if all other Councillors have declined the opportunity. A copy of the draft revised wording is attached as appendix E.

## **Changes to the Special Advisory Group terms of references**

- 3.19 As part of its review of the electoral arrangements for 2014 and beyond, the advisory group noted some ambiguity in its terms of reference. In light of this, the terms of reference have been updated to provide greater clarity. A copy of the draft revised wording is attached as appendix F.
- 3.20 An annotated copy of the full Constitution, showing all the changes to be made, is available on the Council's committee management system (modern.gov) at:

<https://wolverhampton.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13081&path=0>

## **4.0 Financial implications**

- 4.1 There are no financial implications associated with the recommendations in this report.
- [GE/05052014/F]

## **5.0 Legal implications**

- 5.1 The Council is required by Section 37 of the Local Government Act 2000 to prepare and publish a Constitution which contains its procedures relating to decision-making, finance and contracts. The Council is also required to keep its Constitution updated.

[RB/06052014/M]

## **6.0 Equalities implications**

- 6.1 There are no equalities implications arising from this report, as the changes to be made are not a result of any new policy or operational practice.

## **7.0 Environmental implications**

- 7.1 There are no environmental implications arising from this report.

## **8.0 Corporate landlord implications**

- 8.1 There are no corporate landlord implications arising from this report.

## **9.0 Human Resources implications**

- 9.1 The proposed changes in respect of hearing human resources appeals will have implications for a number of employees. These will be covered in more detail in the submission of proposals to the Special Advisory Group and Cabinet.

## **10.0 Schedule of background papers**

Amendments to the Constitution – Special Advisory Group – 24 April 2014  
Amendments to the Constitution – Standards Committee – 1 May 2014

## **Appendix A**

### **APPROACH TO DEALING WITH PETITIONS AT FULL COUNCIL MEETINGS**

- a. Where a Petition contains more than 2,500 signatures, the Council's Constitution provides for the matter to be debated by Full Council.
- b. Full Council will endeavour to consider the Petition at its next scheduled meeting, although on some occasions this may not be possible and consideration will then take place at the following scheduled meeting.
- c. The relevant Cabinet Member, or nominated substitute, will be in attendance at the Full Council meeting.
- d. The lead Petitioners will be given up to five minutes to present the Petition. The Petition will then be considered by Councillors for a maximum of a further 40 minutes, of which up to five minutes will be specifically allocated to the Cabinet Member for his or her response. Broad timings are detailed in the diagram at the end of this section but they are provided as guidelines – management of the debate is ultimately at the Mayor's discretion.

#### Detailed procedure:

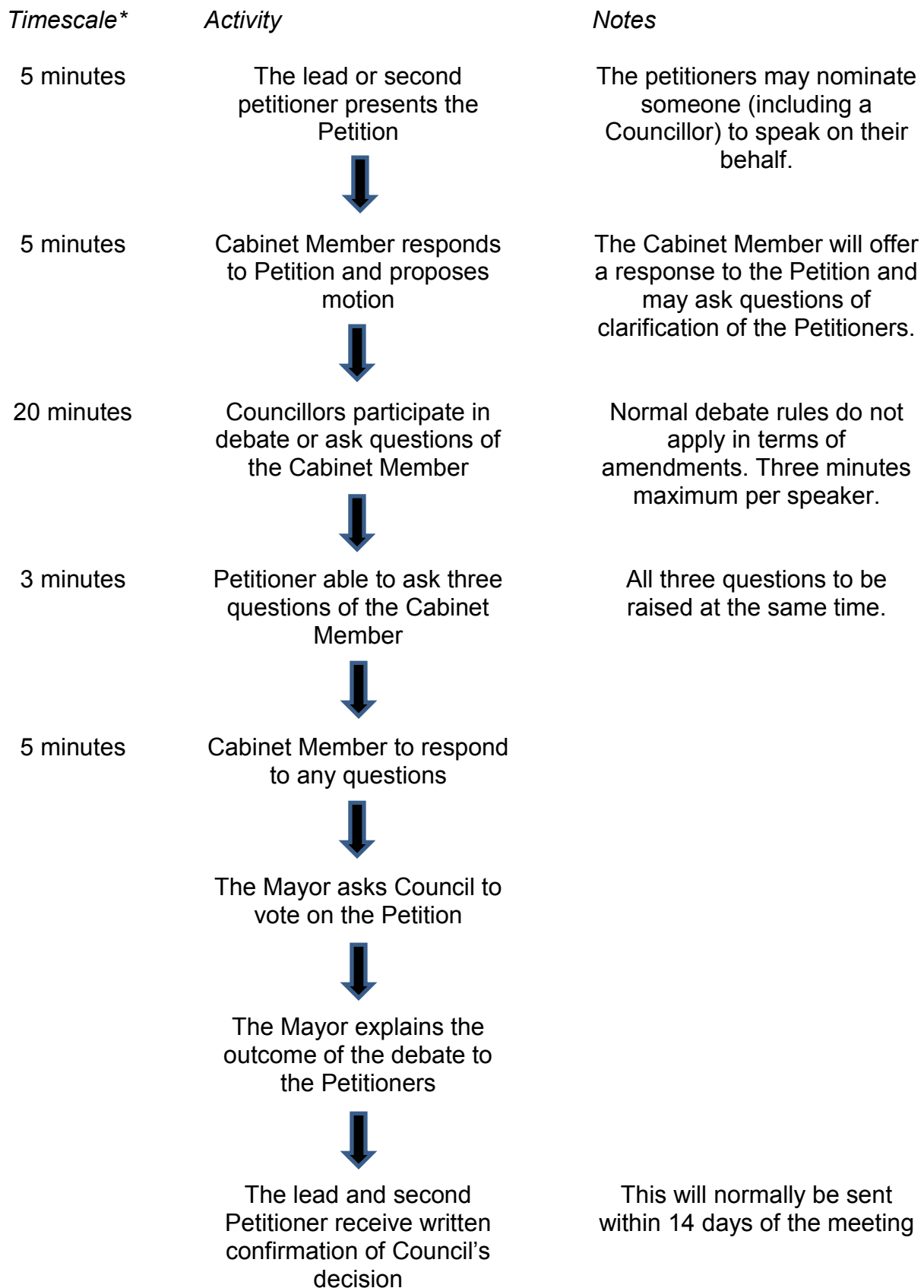
- (i) Democratic Support will have already invited representatives of the Petitioners (lead Petitioner and a further Petitioner to be referred to as the Second Petitioner) to attend the meeting and to give oral evidence to Full Council. Petitioners may also provide written evidence in support of their Petition. Full Council's role is to ensure that appropriate action is taken in respect of each admissible Petition.
- (ii) A report on the details of the Petition, including background details and comments from the appropriate service, will have been circulated to Councillors, as part of their Council papers, together with a copy of the Petition; a copy of the report will also have been provided to the lead and second Petitioners.
- (iii) Petitioners may nominate someone else, including a Councillor, to speak and present the Petition on their behalf. In the absence of the Petitioners, or a representative to speak on their behalf, Council will consider the matter anyway in accordance with this process.
- (iv) Where Petitioners are present, the lead and second Petitioners will be seated near to the public gallery. At the appropriate juncture, the lead and second Petitioners will be shown to a seat at the front of the Council Chamber.

- (v) The Petition will be considered as the first item of substantive business following consideration of formal Council business i.e. following consideration of Apologies for Absence, Declarations of Interest, Minutes and Mayor's Communications.
- (vi) The Mayor will announce that the Petition will be considered as the next item of business, upon which a time limit of 45 minutes shall apply. This time limit includes five minutes for the lead or second Petitioner, but not both, to present the Petition.
- (vii) The Mayor will invite the relevant Cabinet Member to respond to the Petition and propose a motion in light of the Petition for Council to consider. The Cabinet Member has up to five minutes for his or her response, including proposal of a motion. The motion should be based upon one of the four options open to the Council for its response to a Petition:
  - (a) decide to take the action the Petition requests
  - (b) decide not to take the action requested
  - (c) decide to commission further investigation into the matter, for example by a relevant Cabinet meeting, or
  - (d) where the issue is one on which the Cabinet is required to make the final decision, Council must decide whether to make recommendations to Cabinet to inform that decision.
- (viii) The Mayor will ask if there is a seconder for the motion.
- (ix) The Mayor will invite Councillors to debate the motion, which may include asking questions of the Cabinet Member. Normal rules of debate with regard to amendments are suspended during consideration of a Petition. Any speaker is limited to a maximum of three minutes.
- (x) At the conclusion of the general debate, the Mayor will ask the lead or second Petitioners to ask up to three questions of the Cabinet Member. The questions must all be raised at the same time.
- (xi) The Cabinet Member will have up to five minutes to respond to any questions raised. The Cabinet Member may recommend an amendment to their original motion based on the debate and consideration of the issues.



- (xii) At the conclusion of consideration of the item, the Mayor will ask Council to vote on the motion proposed by the Cabinet Member. In the event that the motion is not passed, an alternative motion will be proposed and seconded, based on the options detailed in (vii) above. Votes on a second or any subsequent motion will be taken immediately without any further debate.
- (xiii) Following approval of a motion, the Mayor will explain the outcome of the debate to the Petitioners and thank them for their attendance. At this point the lead and second Petitioners will be asked if they wish to either leave the meeting or, if not, return to their seats in the public gallery.
- (xiv) The lead and second Petitioners will receive written confirmation of Full Council's decision. This confirmation will also be published on the Council's website.

## PETITIONS PROTOCOL FLOW DIAGRAM



\*Timings are provided as a guideline. Exact timings are at the discretion of the Mayor.

## Appendix B

### **FULL COUNCIL MEETINGS PROCEDURE RULES**

**FULL COUNCIL MEETINGS PROCEDURE RULES**  
**PAGE NUMBERS TO BE CHECKED**

<b>Rule</b>	<b>Page</b>
1. Definitions and Application of Rules	3 - 5
2. Annual Council Meetings	5 - 8
3. Ordinary Council Meetings	8 - 9
4. Extraordinary Council Meetings	9
5. Time and Place of Meetings	9
6. Notice of and Summons to Meetings	10
7. Quorum	10
8. Duration of Meeting	10
9. Questions by Councillors	10 - 12
10. Motions on Notice	12
11. Motions without Notice	12 - 13
12. Rules of Debate	13 - 17
13. Previous Decisions and Motions	17
14. Voting	17 - 18
15. Minutes	18 - 19
16. Record of Attendance	19
17. Exclusion of Public	19
18. Councillors' Conduct	19
19. Disturbance by Public	20
20. Suspension and Amendment of Council Procedure Rules	20

## **1. DEFINITIONS AND APPLICATION OF RULES**

### **1.1 In these Rules, unless the context otherwise demands the following terms shall have the meaning assigned to them:**

“Cabinet” -. Leader and two but not more than nine other Councillors appointed by the Leader acting together

“Cabinet Panel” - a number of Cabinet Members acting together.

“Constitution” - the Constitution of the Council required by the 2000 Act.

“Council” - the Wolverhampton City Council acting by the Council.

“Head of Paid Service” - the Chief Executive or other person designated as such under Article 12 of the Constitution.

“Leader” - the person elected by the Council to be the Leader of the Council.

“Meeting” - a meeting of the Council.

“Councillor ” - an elected member of the Council.

“Monitoring Officer” - the Strategic Director of Delivery or other person designated as such under Article 12 of the Constitution.

“Assistant Director (Finance)” – the Council’s appointed Officer under section 151 of the Local Government Act 1972 and who is responsible for the proper administration of the Council’s financial affairs. Also referred to as the Section 151 Officer, the Assistant Director’s (Finance) role is independent and reports to Council. This role can also be fulfilled by another employee where authorised by the Assistant Director (Finance) to act on their behalf.

“number of Councillors ” - in relation to the Council, the number of persons who may act at the time in question as Councillors, and in relation to the Scrutiny Board or a Scrutiny Panel or Regulatory or other Committee the number of persons who may act at the time in question as voting members of that body.

“person presiding” - the person entitled, or appointed, to preside at any meeting.

“Co-opted Member” – A person who is not an elected Councillor of the Council but who has been appointed to membership of a Council Scrutiny Panel. Statutory Co-opted Members are Church and Parent Governor representatives who have voting rights and serve on the Children and Young People Scrutiny Panel. Non-statutory Co-opted Members are Youth Council representatives serving on the Children and Young People Scrutiny Panel.

~~“Independent Person” – A person appointed in accordance with various legislation and regulations to serve on the Standards Committee.~~

“political group” - a political group as defined in Regulations made under the Local Government and Housing Act 1989.

“political balance rules” - the rules made under the Local Government and Housing Act 1989.

“Scrutiny Board” - Board comprising Councillors who are not Cabinet Members.

“Scrutiny Panel” - Panels comprising Councillors who are not Cabinet Members.

Regulatory or other Committee” - Committees or Panels comprising Councillors or other persons established to deal with functions which are neither reserved to the Full Council nor are Cabinet functions.

“the 1972 Act” - the Local Government Act 1972.

“the 1989 Act” - the Local Government and Housing Act 1989.

“the 2000 Act” - the Local Government Act 2000.

1.2 Rules 1 to 20 apply to meetings of the Full Council.

1.3 The following Rules will apply to meetings of the Cabinet, Cabinet Panels, the Scrutiny Board or Scrutiny Panels and Regulatory or other Committees:

Rule 5	Time and Place of Meetings
Rule 6	Notice of and Summons to meetings except that notice of and summons of meetings shall be sent only to Councillors of the body in question.
Rule 7	Quorum except that: (i) a Quorum shall be not less than 2; (ii) the Quorum of the Cabinet and the Cabinet Panels shall be in accordance with the Cabinet Procedure Rules.
Rule 11 (a) (b) (d) (e) (f) (g) (n) (p)	Motions without notice.
Rule 12	Rules of Debate.
Rule 14	Voting.
Rule 15	Minutes.
Rule 16	Record of Attendance.
Rule 17	Exclusion of public.
Rule 18.2 – 18.5	Councillors’ conduct.
Rule 19	Disturbance by the public.
Rule 20.1	Suspension of Council Procedure Rules.

1.4 Rule 21 will apply to Regulatory or other Committees only. 1.5 (i) Subject to (ii) below, filming, including the taking of photographs, video recording, the use of tweeting, blogging or other forms of social media by the public and press will generally be allowed in respect of Part 1 (public) of the proceedings of Full Council, Cabinet, Scrutiny and Regulatory or other Committee meetings of the Council in accordance with the Protocol set out in this Appendix.

(ii) Individual Chairs of meetings may, in the interests of the good conduct of a meeting, refuse permission for such activity. Any decision to refuse permission will be explained at the meeting and will not be open to challenge.

## **2. ANNUAL MEETINGS OF THE COUNCIL**

### **2.1 Timing and business**

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. In any other year, the annual meeting will take place in May.

The annual meeting will:

- (i) elect a person to preside if the Mayor and the Deputy Mayor are not present;
- (ii) elect the Mayor;
- (iii) appoint the Deputy Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor;
- (vi) elect the Leader of the Council;
- (vii) receive the Leader's appointments to the Cabinet;
- (viii) appoint the Scrutiny Board and at least one Scrutiny Panel; a Standards Committee and such other Regulatory or other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions (as set out in this Appendix);
- (ix) appoint Member Champions;
- (x) appoint representatives to Outside Bodies unless the appointment is a Cabinet function or has been delegated by the Full Council.
- (xi) approve the scheme of delegation or such part of it as the Constitution determines it is for the Council to approve (as set out in Appendix 1);

- (xii) approve a programme of ordinary meetings of the Full Council, the Cabinet, the Scrutiny Board and Scrutiny Panels and Regulatory or other Committees for the year; and
- (xiii) consider any business set out in the notice convening the meeting.

## 2.2 Appointments to the Scrutiny Board, Scrutiny Panels, Regulatory or other Committees and Outside Bodies

At the Annual Meeting, the Council will:

- (i) decide which Scrutiny Panels and Regulatory or other Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules set out in paragraph 2.4 below
- (iv) appoint a Member Champion for Equalities
- (v) appoint to the Scrutiny Board, Scrutiny Panels, Call-in Group, Regulatory or other Committees and outside bodies except where appointment to those outside bodies has been delegated by the Full Council or is exercisable only by the Cabinet;
- (vi) appoint voting and non-voting co-opted members to the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees.

**Note:** Every Councillor who is not a Cabinet Member shall serve on at least two Scrutiny Panels or two Regulatory or other Committees or on at least one of each such bodies. Appointment to the Scrutiny Board will count towards the requirement to sit on at least two bodies.

## 2.3 Appointment of Chairs to the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees

- (i) Full Council will appoint from among the voting Councillors, Chairs and Vice-Chairs of the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees.
- (ii) If any appointment possible under the previous paragraph is not made, the body at its first meeting after the annual meeting of the Council shall, from among its voting Councillors, appoint a Chair and Vice-Chair.
- (iii) If it is necessary for the body to appoint a person to preside, the Chief Executive shall call on a Councillor of the body to move that a voting Councillor of the body shall take the Chair.



**Note:** The appointment of the Chair of the Standards Committee shall be in accordance with Article 9.2 of the Constitution.

## 2.4 Political Balance Rules

- (i) The Local Government and Housing Act 1989 requires that the Council periodically reviews the political composition of the Council and how this is applied to appointments to Committees and Sub- Committees of the Council.
- (ii) The rules for securing political balance on Committees and Sub-Committees appointed by local authorities are contained in sections 15 and 16 of the Act and the Local Government (Committees and Political Groups) Regulations 1990.

The Council is under a duty to:

- Ensure the membership of those Committees and Sub-Committees covered by the rules reflect the political composition of the Council as far as practicable;
- To review the allocation of seats to political groups at or as soon as practical after the Annual Council meeting and at certain other specified times e.g. as a result of changes in political balance or an increase in the number of Committees established
- To allocate seats on the Committees to the political groups in proportion to their numerical strength on the Council, as far as is practicable;
- To accept nominations made by the groups for the filling of seat allocated to them

In determining the allocation of seats, the Council must also apply the following four principles, as far as reasonably practicable;

- (a) Not all seats to be allocated to the same political group
- (b) If a political group has a majority on the Council, it must have a majority of seats on the Committees
- (c) Subject to (a) – (b) above, the total of all seats on ordinary Committees be allocated to the groups in proportion to their respective strengths on the Council and
- (d) Subject to (a) – (c ) the number of seats on ordinary Committees or Sub-Committees to be allocated to each political group in proportion to the number of all the seats on the Committee or Sub-Committee in proportion to their relative strengths on the Council.

Independent Councillors who have not formed a political group in accordance with Regulation 8 of the Local Government (Committees and Political Groups) Regulations are to be allocated seats in accordance with section 16 (3) of the Regulations. i.e. any seats not allocated according to the requirements in section 15 and section 16 of the Act, to be allocated to Councillors who are not Members of any political group

Under Section 17 of the Local Government and Housing Act 1989 and Regulation 20 of the Local Government (Committee and Political Groups) Regulations 1990 certain bodies of the Council are exempt from the requirements relating to political balance as they are established under separate legislation. For this reason, the following meetings are not covered by these arrangements:-

- The Cabinet
- All Cabinet Panels
- Standards Committee
- Standards (Hearings) Sub Committee
- Standards (Assessment) Sub Committee
- Licensing Sub Committee

Additionally, where meetings are (a) advisory in nature or (b) where the Council has determined otherwise and no Councillor has voted against, the political balance requirements need not apply.

### **3. ORDINARY MEETINGS OF THE COUNCIL**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) Receive apologies for absence
- (iii) approve the minutes of the last meeting;
- (iv) receive any declarations of interest from Councillors;
- (v) receive any announcements from the Mayor;
- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the Cabinet, the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Scrutiny Board and Scrutiny Panels for debate.

## **4. EXTRAORDINARY MEETINGS OF THE COUNCIL**

### **4.1 Calling extraordinary meetings**

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

- (i) the Full Council by resolution;
- (ii) the Mayor, or if the office of Mayor is vacant, or if the Mayor is unable to act for any reason, the Deputy Mayor;
- (iii) the Leader;
- (iv) the Monitoring Officer; and
- (v) any five Councillors if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition. A requisition may be presented to the Mayor by being left for him/her with the Chief Executive.
- (vi) the Chief Executive shall arrange for the additional meeting to be held within 21 days of the receipt of the request. If, after such a request has been made, and no meeting has been called within seven days, the Councillors concerned shall inform the Chief Executive of their intention to call an extraordinary meeting of the Council, the business to be transacted and the date and time of the meeting.

### **4.2 Business**

The business to be transacted at an Extraordinary Meeting of the Council shall be only the business which is specified in the summons.

## **5. TIME AND PLACE OF MEETINGS**

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

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least seven clear days before a meeting he/she will send a summons signed by him/her by post to every Councillor or leave it at their usual place of residence. 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.

## **7. QUORUM**

The quorum of a meeting will be one quarter of the whole number of Councillors. During any meeting if the person presiding counts the number of Councillors present and

declares there is not a quorum present, then the meeting will adjourn for fifteen minutes. If after that period there is still not a quorum present the meeting will end. Remaining business will be considered at a time and date fixed by the person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. DURATION OF MEETING**

Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for 3½ hours will adjourn immediately. A motion to continue the meeting shall be moved immediately before or immediately after the expiration of 3½ hours and before the person presiding declares the meeting closed. Remaining business will be considered at a time and date fixed by the person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. Provided that this shall not prevent:

- (a) statutory or other business which by law must be transacted at any such meeting;
- (b) the transaction of unopposed business, that is to say, business which can be transacted without the making of any speeches by any Councillor other than proposing and seconding of the necessary motions. If any Councillor indicates that he/she wishes to speak thereon, the business shall not be regarded as unopposed, but the person presiding shall rule it as standing adjourned.

## **9. QUESTIONS BY COUNCILLORS**

### **9.1 On reports of the Cabinet, Scrutiny Board, Scrutiny Panels or Regulatory or other Committees**

A Councillor may ask a Cabinet Member or the Chair of the Scrutiny Board or a Scrutiny Panel or a Regulatory or other Committee any question upon an item of a report of the Cabinet or Board or Panel or Regulatory or other Committee when that item is being received or under consideration by the Full Council.

### **9.2 Questions on notice at Council meetings**

Subject to Rule 9.4 below, a Councillor may ask:

- (a) the person presiding;
- (b) a Cabinet Member;
- (c) the Chair of the Scrutiny Board or any Scrutiny Panel or Regulatory or other Committee;
- (d) a Councillor appointed as the Council's representative on any joint authority or Committee where the Council is a constituent member

a question on any matter in relation to which the Council has powers or duties or which affects the City.

### 9.3 Number of questions

Subject to Rule 9.6 any Councillor may ask no more than one question (except questions under Rule 9.1) at a meeting of the Full Council. The Leader of the Council and the leader of the main opposition group on the Council, if any, may ask more than one question at a meeting of the Full Council.

### 9.4 Notice of questions

A Councillor may only ask a question under Rule 9.2 if either:

- (a) they have given at least seven clear days notice in writing of the question to the Chief Executive or
- (b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Chief Executive three hours before the start of the meeting.

### 9.5 Response

An answer may take the form of:

- (a) a direct oral answer by the person to whom the question was put or some other Councillor nominated by him/her;
- (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 later to the questioner.

### 9.6 Supplementary question

A Councillor asking a question under Rule 9.2 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## 10. MOTIONS ON NOTICE

### 10.1 Notice

- (a) Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least one Councillor, must be delivered to the Chief Executive not later than seven clear days before the date of the meeting.

- (b) The Chief Executive shall not accept any notice of motion which, by reason of any enactment or provision in these Rules, could not be considered at the meeting for which it is given.

#### 10.2 Motions set out on Agenda

- (a) Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Councillor giving notice states, in writing, that he/she withdraws it.
- (b) A motion shall only be moved by the Councillor by whom notice has been given or by a Councillor authorised in writing by that Councillor.

#### 10.3 Number of motions

Any Councillor may give notice of not more than one motion for consideration at any meeting of the Full Council. The Leader of the Council and the Leader of the Main Opposition Group on the Council, if any, may give notice of more than one motion for consideration at any meeting of the Full Council.

#### 10.4 Scope of motions

Motions must be about matters for which the Council has a responsibility or which affect the City.

### 11. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a person to preside at 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 an appropriate body or individual;
- (e) to receive reports or adoption of recommendations of the Scrutiny Board or Scrutiny Panels or Regulatory and other Committees or employees and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;

- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3½ hours in duration;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (o) to not hear further a Councillor named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4; and
- (p) to give the consent of the Council where its consent is required by the Constitution.

## 12. RULES OF DEBATE

The diagram set out overleaf outlines the process for consideration of a motion, whether that motion be moved with or without notice.

### 12.1 No speeches until motion seconded

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

### 12.2 Right to require motion in writing

When any motion of which notice has not been given, or any amendment has been moved and seconded, the person presiding may require the motion or any amendment to be written down and handed to him/her before it is further discussed.

### 12.3 Secunder's speech

When seconding a motion or amendment, a Councillor may reserve their 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 point of information or point of order. Except as detailed in paragraph 12.5, No speech moving a motion may exceed ten minutes and no other speech may exceed five minutes without the consent of the person presiding.

## 12.5 Content and length of speeches: setting the budget or revised budget

At a meeting at which the annual budget is set (or a revised budget proposed), the principal speeches and responses of the leader of each Political Group, or his/her nominated representative, shall not be time limited. All other speeches will be limited as detailed in paragraph 12.4. The group leader, or his/her nominated representative, will normally be the first person to speak from each group, and each group leader shall be entitled to be called before any other Councillor speaks. The Leader of the Council will normally propose the budget and, once it has been seconded, the other group leaders will be called in order of precedence according to the number of Councillors in each group. As with other Council meetings, the exact length of speeches and management of the debate is at the discretion of the person presiding.

## 12.65 When a Councillor may speak again

A Councillor 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 Councillor;
- (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 Councillor, 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 under Rule 12.9;
- (e) on a point of order under Rule 12.12; and
- (f) on a point of information under Rule 12.13.

## 12.76 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert ~~or add~~ others; or
  - (iv) to insert ~~or add~~ words;

as long as the effect of (ii) to (iv) is not to negate the motion.



- (b) 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.
- (c) If an amendment is not carried, other amendments to the original motion may be moved. In the absence of any such subsequent amendments, debate on the original motion will proceed.
- (d) 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.
- (e) After an amendment has been carried, the person presiding will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### | 12.87 Alteration of motion

- (a) A Councillor 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 Councillor may alter a motion which he/she has moved without notice with the consent of the meeting.
- (c) Only alterations which could be made as an amendment may be made.

#### | 12.98 Withdrawal of motion

A Councillor may withdraw a motion which he/she has moved with the consent of the meeting. No Councillor may speak on the motion after the mover has asked permission to withdraw it, unless consent is withheld and the debate continues.

#### | 12.109 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, 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 or her amendment.

#### | 12.110 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (i) to not hear further a Councillor named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4.

#### | 12.1~~2~~<sup>4</sup> Closure motions

- (a) A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the person presiding thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the procedural motion is carried the original motion shall lapse.
- (c) If a motion that the question be now put is seconded and the person presiding thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a 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 person presiding thinks the item has not been sufficiently discussed 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. The original motion or remaining business shall then stand over as uncompleted business until the next meeting of the Council.

| 12.1~~32~~<sup>32</sup> Point of order

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

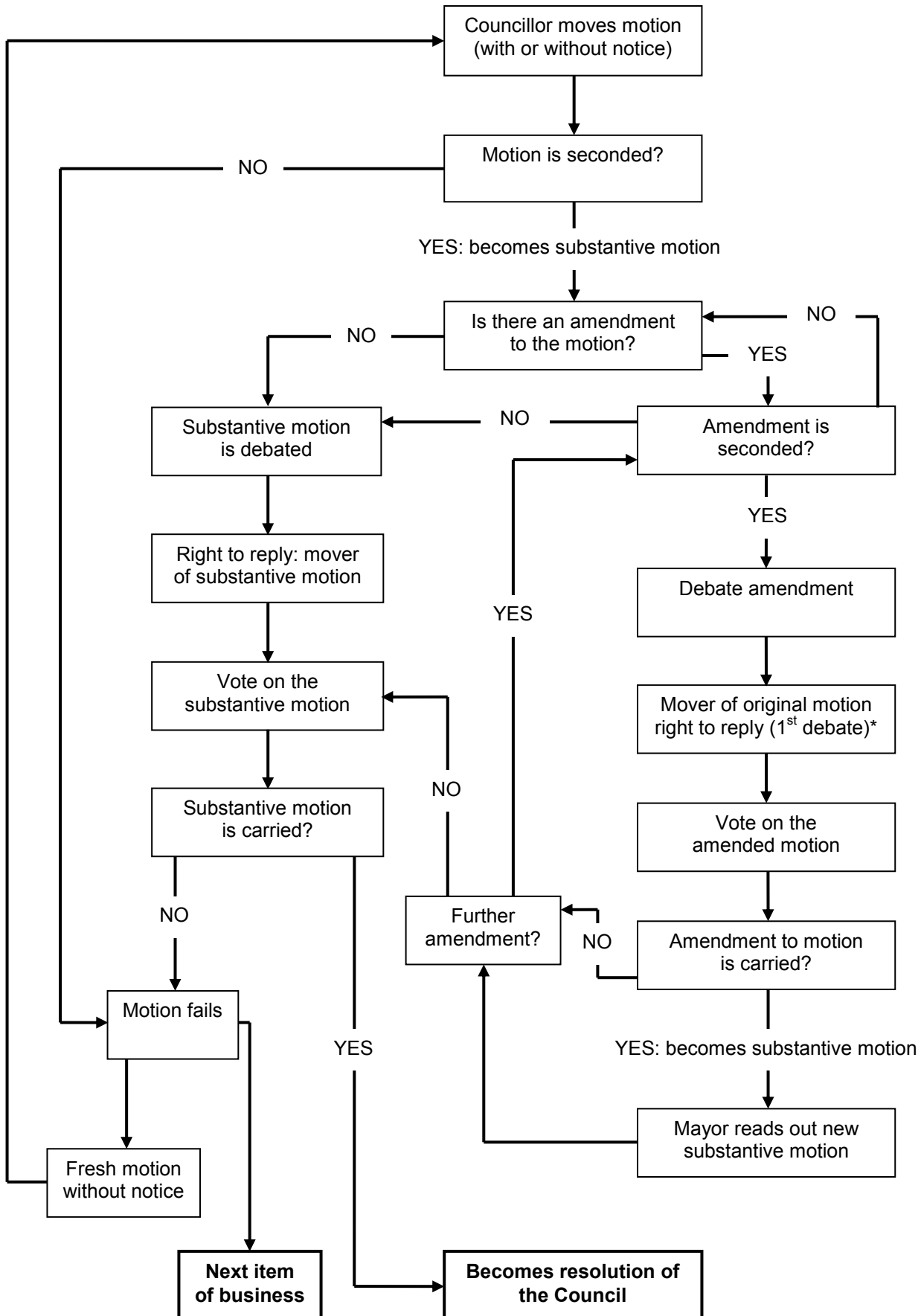
| 12.1~~43~~<sup>43</sup> Point of information

A point of information may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The point of information may be given whilst another Councillor is speaking but only if that Councillor is willing to give way. The ruling of the person presiding on the admissibility of a point of information will be final.

| 12.1~~54~~<sup>54</sup> Attendance at another body

A Councillor who is not otherwise entitled to speak at a body may so attend and speak (but not vote) during consideration of any item which he/she has moved or seconded at Council and which has been referred to that body.

## PROCESS FOR CONSIDERATION OF MOTIONS AT COUNCIL



### **13. PREVIOUS DECISIONS AND MOTIONS** \*Mover of the amendment has no right to reply

Except on the recommendation of the Cabinet, the Scrutiny Board or a Scrutiny Panel or a Regulatory or other Committee, no matter which has been decided by the Full Council on a motion or otherwise shall again be submitted to the Full Council for further consideration until after the next annual meeting; and when any matter shall be so prohibited from being considered, the effect of this Rule shall not be evaded by substituting any motion differently worded but substantially the same in effect or in principle, and if any such attempt be made, the person presiding shall rule it out of order.

### **14. VOTING**

#### **14.1 Majority**

Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question was put. The method of voting shall be at the discretion of the person presiding.

#### **14.2 Casting vote of person presiding**

If there are equal numbers of votes for and against, the person presiding will have a second or casting vote exercised in accordance with the Protocol approved by the Council. The protocol governing the use of the Mayor's casting vote at meetings of the Full Council is set out in this Appendix.

#### **14.3 Recorded vote**

- (a) If ten Councillors present at a meeting of the Council or one third of the Councillors present at a meeting of the Scrutiny Board or a Scrutiny Panel or a Regulatory or other Committee demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- (b) In relation to meetings of the Full Council only, a division bell shall be rung allowing a period of three minutes to enable Councillors to resume their places in the Chamber. Any Councillor not then present shall not be permitted to vote on the issue in question.

#### **14.4 Right to require individual vote to be recorded**

Where any Councillor 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.

#### **14.5 ~~14.5~~ Voting on appointments**

If there are two or more Councillors nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with

the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### 14.6 Voting on the Council's budget

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a record will be made in the minutes of the meeting of the names of the persons who cast a vote for or against the decision or who abstained from voting, where that vote is in relation to the setting of the Council's budget or revised budget.

### **15. MINUTES**

#### 15.1 Signing the minutes

The person presiding will sign the minutes of the proceedings at the next suitable meeting. The person presiding 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.

#### 15.2 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 1972 Act (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of signing the minutes.

#### 15.3 Form of minutes

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

### **16. RECORD OF ATTENDANCE**

A record will be made of all Councillors present during the whole or part of a meeting.

### **17. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Appendix 2 or Rule 19 below (Disturbance by Public).

### **18. COUNCILLORS' CONDUCT**

#### 18.1 Standing to speak

When a Councillor speaks at a Council meeting he/she must stand unless disabled from doing so and address the meeting through the person presiding. If more than one Councillor stands, the person presiding will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a point of information.

## 18.2 Person presiding standing

When the person presiding stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must then be silent.

## 18.3 Councillor not to be heard further

If a Councillor persistently disregards the ruling of the person presiding by behaving improperly or offensively or deliberately obstructs business, the person presiding may direct that the Councillor be not heard further.

## 18.4 Councillor to leave the meeting

If the Councillor continues to behave improperly after such a direction, the person presiding may direct that either the Councillor leaves the meeting or that the Councillor be removed from the meeting or that the meeting is adjourned for a specified period.

## 18.5 General disturbance

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

# 19. DISTURBANCE BY PUBLIC

## 19.1 Removal of members of the public

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

## 19.2 Clearance of part of meeting room

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

# 20. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

## 20.1 Suspension

All of these Council Procedure Rules except Rule 14 and 15.2 above may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting. This Rule will apply to meetings of the Cabinet, the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees provided that one half of the whole number of voting Councillors are present.

## 20.2 Amendment

These Council Procedure Rules may only be amended by the Full Council after consideration by the Monitoring Officer, the Constitution Review Group, the Special Advisory Group and the Standards Committee.



## **Appendix C**

### **PROTOCOL FOR THE RECORDING AND FILMING OF MEETINGS AND THE USE OF SOCIAL MEDIA**

The Council welcomes engagement by the public and through the media with the decision-making processes that determine the policies and strategies that shape provision of services in Wolverhampton. Audio and, video/visual recording, photography, blogging, ~~twittering~~ tweeting or use of other social media at Council meetings open to the public (hereafter referred to as 'broadcasting activities') ~~is~~ are allowed subject to the following restrictions:

- (i) All ~~audio/video visual recording/ photography blogging, tweeting or use of social media may~~ broadcasting activities should take place from the public gallery or the designated press seating in the meeting room. ~~The activity should normally record the actions of the Council not the reactions of individual members of the public.~~
- (ii) Anyone undertaking ~~audio/video visual recording/ photography blogging, tweeting or use of social media~~ broadcasting activities must ~~notify the Democratic Services Officer prior to the commencement of the meeting and~~ comply with any instructions given by the Chair of the meeting.
- (iii) The use of flash photography, ~~or~~ additional lighting or professional microphones (i.e. by recognised media groups or for educational purposes) in connection with audio/visual recording at meetings will not be permitted without prior permission.
- ~~(iv) — Where the Chair of a meeting considers the audio/video visual recording/ photography blogging, tweeting or use of social media is disrupting the meeting, the operator of the equipment will be required to stop.~~
- ~~(v) — Members of the public and press must agree to ensure the audio/video visual recording/ photography blogging, tweeting or use of social media will not be edited in a way that could lead to misinterpretation of the proceedings of a meeting. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed/ recorded/ photographed.~~
- (~~iv~~) The Democratic Support team will ensure signs are prominently displayed at meetings to remind attendees that ~~filming/ recording/ photography audio/video visual recording/ blogging, tweeting or use of social media~~ broadcasting activities may be undertaken and that the Council has no control over where it material may appear (for example posted on the internet) ~~and to remind the public of their right not to be filmed, recorded or photographed.~~ Meeting agendas will also carry this message.
- ~~(vii) — Anyone seated in the public area or anyone attending the meeting to speak will have the opportunity to express to the Chair at any point in the proceedings their wish not to be filmed/~~

~~recorded/photographed. [Councillors are excluded from this provision.]~~

~~(viii) The Chair can suspend filming when someone who wishes to speak does not wish to be filmed/recorded/photographed.~~

~~(ix) If the Chair reasonably believes the audio/video visual recording/ photography blogging, tweeting or use of social media is disrupting the meeting in any way the operator of the equipment will be required to stop.~~

(v) Where the Chair of a meeting reasonably considers the broadcasting activity is disrupting the meeting, the operator of the equipment will be required to stop.

(vix) Anyone refusing to stop when requested to do so may be requested by the Chair to leave the meeting. If the person refuses to leave then the Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the Constitution.

~~(xi) At the commencement of a meeting, the Chair will announce if any requests to record etc have been made.~~

(viiixii) Anyone asked to leave a meeting because they have refused to comply with the Chair's requests may be refused permission to ~~film, record, and photograph blogging, twittering or use of social media~~engage in broadcasting activities at future Council meetings.

(viiiixiii) Any decision taken by the Chair on the interpretation of this protocol is final.

(ixiv) The media and public may only be excluded from a meeting in respect of business relating to confidential or exempt information if a resolution is passed under Section 100A of the Local Government Act 1972. The media and public will be told about the nature of the exclusion relating to the business to be discussed. No ~~filming/ recording/ photography~~broadcasting activities will be permitted during this exclusion. All cameras, recording and sound equipment must then be removed from the meeting room.

(xv) Recognised media organisations and educational institutions may be given greater flexibility to record/film meetings for the purposes of news bulletins, programmes and education. These requests must be directed through the Council's Communications Team and approved by the Leader ~~and plus~~

the Mayor (in the case of meetings of the Full Council) or the Chair ~~of the~~ (for all other meetings).

---

### **Clean copy**

The Council welcomes engagement by the public and through the media with the decision-making processes that determine the policies and strategies that shape provision of services in Wolverhampton. Audio and video/visual recording, photography, blogging, tweeting or use of other social media at meetings open to the public (hereafter referred to as 'broadcasting activities') are allowed subject to the following restrictions:

- (i) All broadcasting activities should take place from the public gallery or the designated press seating in the meeting room.
- (ii) Anyone undertaking broadcasting activities must comply with any instructions given by the Chair of the meeting.
- (iii) The use of flash photography, additional lighting or professional microphones (i.e. by recognised media groups or for educational purposes) in connection with audio/visual recording at meetings will not be permitted without prior permission.
- (iv) The Democratic Support team will ensure signs are prominently displayed at meetings to remind attendees that broadcasting activities may be undertaken and that the Council has no control over where material may appear (for example posted on the internet). Meeting agendas will also carry this message.
- (v) Where the Chair of a meeting reasonably considers the broadcasting activity is disrupting the meeting, the operator of the equipment will be required to stop.(vi) Anyone refusing to stop when requested to do so may be requested by the Chair to leave the meeting. If the person refuses to leave then the Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the Constitution.
- (vii) Anyone asked to leave a meeting because they have refused to comply with the Chair's requests may be refused permission to engage in broadcasting activities at future meetings.
- (viii) Any decision taken by the Chair on the interpretation of this protocol is final.
- (ix) The media and public may only be excluded from a meeting in respect of business relating to confidential or exempt information if a resolution is passed under Section 100A of the Local Government Act 1972. The media and public will be told about

the nature of the exclusion relating to the business to be discussed. No broadcasting activities will be permitted during this exclusion. All cameras, recording and sound equipment must then be removed from the meeting room.

- (x) Recognised media organisations and educational institutions may be given greater flexibility to record/film meetings for the purposes of news bulletins, programmes and education. These requests must be directed through the Council's Communications Team and approved by the Leader plus the Mayor (in the case of meetings of the Full Council) or the Chair (for all other meetings).

## **Appendix D**

### **WOLVERHAMPTON CITY COUNCIL**

#### **DRAFT Planning Code of Conduct for Councillors and Employees**

## **Contents**

1. Introduction
2. General Principles
3. General Role of Councillors and Employees
4. Declarations of Interest
5. Pre-Application and Pre-Decision Discussions
6. Attendance at Public Meetings
7. Lobbying and Pre-Determination
8. Party Whip
9. Public Participation
10. Reports to Planning Committee
11. Decision Making Process
12. Committee Site Visits
13. Development Proposals of Councillors, Employees and the Council
14. Planning Agreements
15. Filming
16. Training

## **1. Introduction**

- 1.1 This Code has been written to advise all those concerned with planning matters of Wolverhampton City Council. Planning is not an exact science, rather, it relies on informed judgement within a policy context. It can be highly contentious because its decisions affect the lives and the private interests of individuals, landowners, and developers. This is heightened by the openness of the system (it actively invites public opinion before taking some decisions) and the legal nature of development plans and decisions notices. It is important, therefore, that the process is open and transparent.
- 1.2 One of the key purposes of the planning system is to enable good development in the public interest. The Council should make planning decisions openly, impartially, with sound judgement, and for justifiable reasons. The process should leave no ground for suggesting that a decision has been partial, biased, or not well-founded.
- 1.3 Councillors and employees are requested to read this Code thoroughly and to put it into practice consistently. It is intended to review the Code regularly so that it remains useful and relevant. If any points are unclear or need review, please contact the Chief Legal Officer or her nominated officer, the Head of Planning or Democratic Support. The responsibility for complying with the Code lies with the individual Councillor.

## **2. General Principles**

- 2.1 Councillors are reminded that they are required to comply with the statutory provisions on the disclosure of interests, the Council's Constitution and the Council's Code of Conduct for Councillors, which forms part of the Constitution.
- 2.2 Employees involved in the processing and determination of planning matters must also act in accordance with the Council's Constitution and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct and the Employee's Code of Conduct.
- 2.3 Whilst this Planning Code deals primarily with planning applications, its principles also apply to consideration of other planning matters. An overriding principle is that when local authorities are dealing with planning matters they should only take into account material planning considerations and ignore irrelevant matters. A key principle is that Councillors should represent the interests of the City as a whole.

## **3. General Roles of Councillors and Employees**

- 3.1 Councillors and employees have different, but complementary roles; both serve the public but Councillors are responsible to the electorate, whilst employees are responsible to the Council as a whole. A successful relationship between Councillors and employees can only be based upon mutual trust and understanding of each other's position. This relationship must never be abused or compromised.

3.2 When Councillors come to make a decision on a planning matter they must:

- (i) Act fairly and openly;
- (ii) Approach each application with an open mind;
- (iii) Carefully weigh up all relevant issues;
- (iv) Determine each application on its own merits;
- (v) Avoid contacts with interested parties which might be taken to indicate that they were unduly influenced by one party or another;
- (vi) Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated;
- (vii) Avoid expressing a fixed view on a case before it is heard by the Planning Committee;
- (viii) Declare any interests.

3.3 The employee's function is to advise and assist Councillors in matters of planning policy and in their determination of planning applications, enforcement issues and any other planning matters by:

- (i) Providing impartial and professional advice;
- (ii) Making sure that all relevant information necessary for the decision to be made is given;
- (iii) Providing a clear, accurate and succinct analysis of the issues;
- (iv) Setting planning applications, enforcement issues and other planning matters against the broader Development Plan policies and other relevant material considerations;
- (v) Giving a clear recommendation;
- (vi) Carrying out the Committee's decisions.

#### **4. Declarations of Interest**

4.1 The Localism Act 2011 repealed the previous standards regime. It required the Council to introduce a code dealing with the conduct expected of Councillors. The Code has to be consistent with the Nolan Seven Principles of Standards in Public Life:

Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

4.2 This document is supplementary to the City Council's Code for Councillors. The Act abolished the previous regime of personal and prejudicial interests and replaced them with "Disclosable Pecuniary Interests". In addition to Disclosable Pecuniary Interests there are other interests which are commonly known as Non- Disclosable Pecuniary or Non- Pecuniary interests and which are referred to below.



#### 4.3 **Disclosable Pecuniary Interests (DPI's)**

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 defines DPI's and these are set out in the Schedule in the City Council's Code of Conduct.

Where a Councillor has a DPI or his/her spouse/civil partner/person with whom he/she is living as husband or wife or as if they were civil partners has a DPI (and the Councillor is aware that the other person has a DPI) he/she should declare the interest, must not participate and must not vote.

The Councillor must also decide whether to withdraw from the meeting. In deciding whether to withdraw from the room the Councillor must consider whether his/her continued presence would be incompatible with the Seven Principles of Standards in Public Life.

#### 4.4 **Other Interests (Non-Disclosable Pecuniary or Non-Pecuniary Interests)**

There will be some circumstances in which the Councillor has an interest but it is not a DPI. Those are commonly known as personal interests (but not as defined under the previous regime).

- i) A Councillor has a personal interest where the decision relates to or is likely to affect the interests listed in the Schedule to the City Council's Code , not in respect of the Councillor or their spouse/partner etc but in respect of another member of their family or a person with whom they have a close association.
- ii) Also a Councillor has a personal interest where a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of the Councillor or a member of their family or a person with whom they have a close association to a greater extent that it would affect the majority of Council Tax payer, ratepayers or inhabitants of the ward or electoral area for which they have been elected or otherwise of the Council's administrative area. Membership of a Trade Union constitutes a personal interest

#### 4.5 It is the responsibility of the individual Councillor to consider whether to declare a personal interest and whether the interest warrants withdrawal from the meeting when the matter arises.

The table below sets out the action that should be taken (unless there are dispensations)

Type of interest	Action to be taken
Non-Pecuniary Interests/ Non-Disclosable Pecuniary Interests	Declare at start of meeting or as soon as it becomes apparent. Participate and vote unless continued presence incompatible with the Seven Principles of Standards in Public Life

Disclosable Pecuniary Interest	<p>Do not influence the decision in any way.</p> <p>Do not participate or vote.</p> <p>Withdraw if continued presence incompatible with the Seven Principles of Standards in Public Life</p>
--------------------------------	--

#### 4.6 Sanctions in respect of Disclosable Pecuniary Interests

There are various sanctions available including criminal proceedings. The Council's decision could be challenged and the Council could be liable to pay compensation. In extreme cases the Councillor would also be held liable to pay compensation.

### 5. Pre-Application and Pre-Decision Discussions

5.1 The Localism Act, particularly Section 25, has given Councillors more freedom to engage in pre-application and pre-decision discussions. Nevertheless, in order to avoid perceptions that Councillors might have fettered their discretion, such discussions should take place within the following guidelines.

- Councillors and employees should make it clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Employees should be present with Councillors in meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations which should be done by employees (keeping interested Councillors up to date) to ensure that the authority's position is co-ordinated.

### 6. Attendance at Public Meetings

6.1 When attending public meetings, Councillors must be accompanied by an employee and they should take great care to maintain their impartial role as a Councillor. They should listen to the points of view expressed by the speakers and the public. Councillors must not state a conclusive decision on any pre-application proposals and submitted planning applications. To do so could lead to allegations of prejudice or bias and prevent the Councillor from taking part in the decision making process.

### 7. Lobbying and Predetermination

7.1 It is likely that on occasion Councillors will be approached by prospective and actual applicants (and agents) or members of the public with a view to them lending support to the proposal, or indeed opposing it. When Councillors are lobbied they need to exercise great care to maintain the Council's reputation, the Councillor's own integrity and the public perception of the planning process.

- 7.2 It was considered that previous rules stifled discussions. Section 25 of the Localism Act 2011 has changed the previous rules of pre-determination and lobbying to some degree. It acknowledges that Councillors are often under pressure to play an active part in local discussions and so there is more scope for involvement in local issues.

“Past history of a closed mind is now irrelevant unless there is also evidence of a closed mind at the actual time of the decision”.

- 7.3 Earlier comments or actions may be taken into account with what happens at the meeting. So if a Councillor had supported the application before the meeting, and then appears to try to push through the application at the meeting, an appearance of a closed mind would be found. Conversely comments made before the meeting would be irrelevant if there was demonstrated to be careful and open-minded consideration at the meeting.
- 7.4 If they are approached, Councillors may wish to refer the person to another Councillor who is not a member of the Planning Committee or to the Planning Case Officer. If the lobbying persists then Councillors should expressly state that whilst they can listen to what is said, if they give any commitment (for or against) in respect of the application/proposal without all relevant information, it could prevent the Councillor from taking part in the decision making process.
- 7.5 Other than for formal site visits, Councillors should not enter the premises or sites which are, or are likely to be, the subject of a planning application.

## **8. The Party Whip**

- 8.1 Councillors must not accept an instruction from anyone to determine an application in a particular manner, but must determine the issue on its merits. Therefore, it is inappropriate for any Party Group to instruct its members to vote in a particular manner. Where such a “Whip” has been applied, Councillors should declare it in exactly the same manner as they would declare any other attempt at lobbying.

## **9. Public Participation**

- 9.1 The Council allows public speaking in accordance with its public speaking protocol. Details of the protocol are available from the Head of Planning or Democratic Support.

## **10. Reports to Planning Committee**

- 10.1 Reports to the Planning Committee on applications and other planning matters should be clear, accurate and succinct. They should include a written recommendation, give clear and unambiguous reasons for granting planning permission (with conditions to be attached) or refusal (with reasons).

- 10.2 The Chair, at the request of any member of the Committee, may adjourn the meeting for a reasonable period of time to enable the Councillors to have an opportunity of reading any information which has been tabled by the employees at the meeting.
- 10.3 As a general rule the members of the Committee will not take into account any written information at the meeting which has not been submitted by the developer/applicant or any consultees (including local residents) as part of the application process. However in exceptional circumstances the Chair, in consultation with the employees present, may exercise his/her discretion to consider new information if it is appropriate to do so.

## **11. The Decision Making Process**

- 11.1 Councillors should not take part or vote on any matter if they have not read the committee report or if have not been present throughout the consideration of such matter (unless the item has been deferred from a previous meeting after being partially considered).
- 11.2 In discussing and determining a planning matter, Councillors should confine themselves to the planning merits of this case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.
- 11.3 Occasionally members of the Planning Committee will disagree with the professional advice given by the Head of Planning or his representative. As indicated above, planning is not an exact science and there can be genuine disagreement about the implications of a particular proposal. A senior legal officer will be present at Committee and will advise the Committee if the facts cannot support the conclusion which the Councillors have drawn and if the Committee is in danger of acting unreasonably. Any reasons for refusal or conditions associated with granting an application, which is contrary to the recommendation made by employees should be clear, convincing and based on sound planning grounds, failing which, the City Council may be put at risk of costs.
- 11.4 Where Councillors wish to add or amend conditions or reasons for the refusal, the general content will be agreed at the meeting before the vote is taken and the final wording will generally be delegated to the relevant employee.

## **12. Committee Site Visits**

- 12.1 A site visit is private and its purpose is for Councillors to gain knowledge of the development proposal and to observe the characteristics of the site and its relationship to its surroundings. A site visit should only be called by the Planning Committee itself:-
- (i) Where the impact of a proposed development is difficult to visualise from the submitted plans and any additional supporting material;

(ii) Where there is a good reason why the comments of the applicants and/or any objectors to, or supporters of, the proposals cannot be expressed adequately in writing;

(iii) Where the proposal is particularly contentious.

12.2 Site visits are not part of the formal consideration of the application and therefore public rights of attendance do not apply. They enable questions to be asked on site for clarification. Discussion on the merits of the application will only take place at the subsequent Committee.

12.3 The site visit shall take place during normal working hours as far as is practicable unless there are reasons which dictate otherwise.

### **13. Development Proposals of Councillors, Employees and the Council**

13.1 Councillors and Employees should never act as agents for individuals (including a company, group or body) pursuing an application, enforcement issue or other planning matter. If Councillors or employees submit their own development proposal to the Council they should take no part in its processing or the decision-making. The Council's Monitoring Officer should be informed by the Councillor of all such proposals as soon as they are submitted and shall ensure that such applications and/or matters are dealt with in a correct and open manner.

13.2 Applications made on behalf of the Council for its own development must be determined in an identical manner to applications made by the general public and with the same planning policy considerations applied. The Council's current practices and procedures achieve this with identical consultation and publicity in relation to the application. Decisions must be made strictly on planning merits and without regard to any financial or other gain which may accrue to the Council if the development is permitted.

### **14. Planning Agreements**

14.1 Applications which propose or require planning obligations by agreement will generally be determined by the Planning Committee. The main issues to be addressed by the agreement will be included in the written report. If Councillors recommend an agreement which is not referred to in the report, Councillors should take into account the tests in the National Planning Policy Framework; Planning Obligations should only be sought where they meet all of the following terms:

- necessary to make the development acceptable in planning terms
- directly related to the development and
- fairly and reasonably related in scale and kind to the development.

### **15. Filming**

15.1 The City Council has a policy relating to recording and filming of meetings. The policy is set out in the Council's Constitution

## **16. Training**

- 16.1 No Councillor should be appointed to the Planning Committee without having agreed to participate in educational training programmes directed towards the role of Councillors in making planning decisions.