
Meeting of the Cabinet – 31st October, 2019

Report of the Lead for Law and Governance (Monitoring Officer)

Annual Review of the Constitution

Purpose

1. To consider the annual review of the Constitution. The full [Constitution](#) is available on the Council's website.

Recommendations

2. The Council be recommended:
 - That the updated Council Procedure Rules, as set out in Appendix 1, be approved.
 - That the Member Officer Charter be incorporated in the Constitution to replace the former Protocol on Member/Officer Relations.
 - That Article 12 of the Constitution be amended to include reference to the role of the Deputy Chief Executive, the Deputy Monitoring Officer, the Deputy Chief Finance (Section 151) Officer and the Statutory Scrutiny Officer.
 - That the Petition Scheme be updated to ensure consistency with the Council Procedure Rules.
 - That the updated Development Control Committee delegations, as set out in Appendix 2, be approved and the Lead for Law and Governance be authorised to make any necessary or consequential changes to the Code of Practice for Members and Officers dealing with Planning Matters.

Background

3. The Council introduced the Constitution in May 2002. Section 37 of the Local Government Act 2000 requires the Council to keep the Constitution up to date. This is reflected in Article 15, which requires the Monitoring Officer to monitor and review the operation of the Constitution to ensure that the aims and principles are given full effect.

4. Full Council is responsible for approving changes to the Constitution after consultation with the Cabinet. An exception to this is that the Leader, with the support of the opposition Group Leader, may approve amendments to the Scheme of Delegation. From time to time, amendments are also made under the Monitoring Officer's delegated powers to update legal provisions and reflect organisational changes.
5. The Constitution promotes the Council's democratic governance arrangements. All previously approved amendments to the Constitution have been implemented. The Committee is asked to scrutinise the issues referred to below and make any recommendations to the Cabinet and Council.

Council Procedure Rules (relevant points are highlighted in Appendix 1)

Appointment of Substitutes for Co-opted Members (Procedure Rule 5.4)

6. Council Procedure Rules do not currently make provision for the appointment of substitutes for Co-opted Members. It is recommended that a new Procedure Rule 5.4 be included to cover this. Substitution will be allowed for any non-elected, non-voting Co-opted Members subject to certain conditions. However, substitution shall not apply to Co-opted Members with voting rights, such as the statutory Co-opted Members on the Children's Services Scrutiny Committee where the voting rights are assigned to a named individual.

Business not dealt with (Procedure Rules 10.2 and 12.5)

7. The Rules make provision for business that is not dealt with at ordinary meetings of the Council in the usual time limits that apply. The opportunity has been taken to clarify that Rule 10.2 relates only to reports, recommendations and questions. It does not apply to 'Notices of Motion', which are covered separately by Council Procedure Rule 12.5.
8. It has also been clarified that any questions under Rule 11 that have not been dealt with in the time period allowed or by 9.30pm shall be either addressed in writing to the relevant portfolio holder or raised at the next ordinary meeting of the Council.

Questions by Members at Full Council (Procedure Rule 11)

9. On 27th June, 2019, the Cabinet approved recommendations from the Overview and Scrutiny Management Board concerning the procedure for dealing with questions by Members at full Council. The revised procedure was adopted with effect from the Council meeting on 8th July, 2019. It was agreed that the amendments to Council Procedure Rule 11 be submitted to full Council in due course as part of the annual review of the Constitution.
10. The revised Council Procedure Rule 11 has been incorporated in the Appendix. Paragraph 11.3 also clarifies that written questions submitted by Members in advance will be dealt with first in the order of receipt by the Monitoring Officer.

Deadlines for Submitting Notices of Motion (Procedure Rule 12.1)

11. Council Procedure Rule 12.1 relates to the submission of notices of motion for full Council meetings. This clarifies that written notices of motion should be sent to the Monitoring Officer at least seven clear working days before the date of the Council meeting. In Dudley, full Council meetings are normally held on Monday evenings. In practice, this means that written notices of motion should be submitted no later than 5.00pm on the Wednesday in the week that the Council summons and agenda is issued.

Point of Order (Procedure Rule 14.12)

12. During the municipal year, the Monitoring Officer has advised Members regarding points of order as set out below. Council Procedure Rule 14.12 states that '*a member may raise a point of order at any time. The Chair will hear them 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 Chair on the matter will be final.*'
13. A point of order is an objection submitted to the Chair for decision claiming some irregularity in the Constitution or conduct of the meeting. The more usual irregularities include:
 - The use of irrelevant or improper language;
 - That a quorum is not present;
 - That an amendment is a simple negative of the motion before the meeting;
 - That the motion is ultra vires or not within the scope of the notice given;
 - That no question is before the meeting eg where a motion has not been seconded (if this is required by procedure rules); and
 - Any non-compliance with the law or procedure rules.
14. If a point of order is raised, the member who is speaking must stop, sit down and allow the Chair to make a decision. The Chair's decision is conclusive and final. Ordinarily no debate is permitted on a point of order.
15. A point of order relates to procedure. It is not concerned with the arguments, principles, political views expressed in the debate or the truth/correctness or otherwise of statements made in the course of debate. A difference of opinion is not a point of order. A member making a point of order must not abuse it by making a speech.

Voting (Procedure Rule 16)

16. Council Procedure Rule 16.3 has been updated to recognise that the Chair of a meeting may take a vote either by show of hands, by using the electronic voting system (if available) or if there is no dissent, by the affirmation of the meeting.
17. Council Procedure Rule 16.4 uses the term 'Named Vote', which relates to specific circumstances where a requisition is made for the way in which Members voted is formally recorded in the minutes of the meeting.

Election of Mayor/Deputy Mayor (Procedure Rule 1.1)

18. Under the provisions of Section 4 of the Local Government Act 1972 and the Council's Constitution (Council Procedure Rule 1.1), the first item of business at the annual meeting of the Council must be the election of the Mayor (ie: the Chairman of the Council). Local protocols/conventions may be useful in clarifying the nominations process, however, the formal decision must be taken at the Annual Council meeting.
19. On 1st March, 2016, the Overview and Scrutiny Management Board considered a report on the [Mayor and Deputy Mayor – Protocols for Nominations and Associated issues](#). The report and minutes of that meeting are on the Council's website.
20. The report contained information about the conventions for making nominations for the Mayor and Deputy Mayor. Based on research and discussions at that time, the Board was asked to consider the following options:-
 - To establish an understanding between the largest political group and the main opposition group that the offices of Mayor and Deputy Mayor will be rotated between those political groups (provided that they wish to nominate candidates).
 - To establish the principle that the serving Deputy Mayor will be nominated to be the Mayor even if there is a change of political control at the municipal elections. This would provide continuity as the Deputy Mayor, in effect, 'shadows' the Mayor for a year before taking up the Mayoral Office. Should the Deputy Mayor fail to be re-elected, or is unable to complete their term of office, an alternative nomination would be sought from the appropriate political group.
21. Following consideration of the report, the Overview and Scrutiny Management Board recommended that the status quo be maintained.

Use of the Casting Vote (Procedure Rule 16.2)

22. The report to the [Overview and Scrutiny Management Board](#) also referred to the possible adoption of protocols in relation to the use of the Mayor's casting vote in the event of a tied vote at a full Council meeting.
23. The Mayor (or person presiding) has a second or casting vote that may be exercised where there is an equality of votes. This is a legal provision under the Local Government Act 1972 Schedule 12 – Section 39(2).
24. Council Procedure Rule 16.2 states that: 'If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote'.

25. The exercise of the casting vote is a matter for the Mayor to decide on any given occasion (or the Deputy Mayor should he/she be presiding in the absence of the Mayor). It is a matter for the Mayor, as Chairman of the Council, to lawfully exercise his/her powers under the Local Government Act 1972 and in accordance with the Constitution.
26. Another possible situation is where local conventions seek to require the Mayor to exercise a second or casting vote to break a tie. Care must be taken to avoid fettering the discretion of the Mayor and the general rule is that if he/she chooses not to exercise his/her casting vote, then any proposition before the meeting will fall (ie: it is not carried by an affirmative vote).

Member Officer Charter

27. On 8th July, 2019, the Council considered a report on the Member Officer Charter. The [report and minutes](#) are available on the Council's internet site.
28. The Council decided to adopt the revised Member Officer Charter on a pilot basis subject to consideration as part of the Annual Review of the Constitution. In line with the decision of the Council, it is recommended that the Member Officer Charter is now incorporated in the Constitution replacing the former Protocol on Member/Officer Relations.

Article 12 – Officers

29. The Council has designated Officers who deputise in the absence, or inability to act, of certain Statutory Officers, namely:

Alan Lunt (Strategic Director Place) - Deputy Chief Executive
Mandy Wilcox (Principal Lawyer) - Deputy Monitoring Officer
Rachel Cooper (Head of Financial Services) - Deputy Chief Finance (Section 151) Officer.
30. Article 12 of the Constitution does not currently refer to the deputising arrangements. It is recommended that an additional paragraph be inserted in Article 12 to clarify that the designated deputies are authorised to discharge any functions that are required to be undertaken in line with the Constitution or pursuant to any necessary legal requirements due to the absence or inability to act of the Chief Executive, the Monitoring Officer or the Chief Finance Officer.
31. The Council also has to designate a Scrutiny Officer under Section 9FB of the Local Government Act 2000. The role of the Scrutiny Officer is:
 - (a) Promoting the role of Overview and Scrutiny Committees.
 - (b) Providing support to the Council's Overview and Scrutiny function and to local Councillors.
 - (c) Providing guidance to Members and Officers of the Council in relation to Overview and Scrutiny functions.

32. The designated statutory Scrutiny Officer cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer. The role is currently undertaken by Steve Griffiths, Democratic Services Manager.

Members' Code of Conduct

33. On 10th April, 2017, the Council passed the following resolution:

'That this Council welcomes the UK Government's recent announcement that it will sign up to the internationally recognised guidelines on anti-semitism. This Council supports positive action to tackle anti-semitism; this Council pledges to combat all forms of racism and discrimination and resolves that this commitment be fully reflected in the Council's Equality and Diversity policies.'

34. The Members' Code of Conduct has been reviewed in the context of the above resolution. It is noted that the Code of Conduct includes the following standards of conduct for Members:-
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures, including on the use of the Council's resources.
 - Always treating people with respect, including the organisations and public I engage with and those I work alongside, and not bullying any person.
35. The Code does not separately identify all the different types of discrimination/racism, however, the Monitoring Officer is satisfied that any such conduct would fall within the remit of the Code. The Code originates from a national model template and, whilst it is general in its content, covers all forms of discrimination/racism.

Development Control Committee – Delegations and Code of Practice for Members and Officers dealing with Planning Matters

36. On 3rd December, 2018, the Council approved an updated scheme of delegations for the Development Control Committee. This followed a review by the Planning Advisory Service.
37. The delegations have been reviewed again this year to ensure they are up to date and consistent. A number of proposed updates are shown in bold in Appendix 2. It is necessary to cross-reference these delegations with the Code of Practice for Members and Officers dealing with planning matters.
38. Subject to the delegations being approved, it is recommended that the Monitoring Officer be authorised to make any necessary or consequential changes to the Code of Practice for Members and Officers dealing with planning matters. The revised document will be reported to the Development Control Committee.

Petition Scheme

39. Council Procedure Rule 4, provides that petitions and memorials shall be submitted to the appropriate Directorate. Petitions are then dealt with in accordance with the Council's Petition Scheme. Any petition or memorial relating to a planning application shall be submitted to the Strategic Director Place.
40. It is proposed that the Petition Scheme is amended to be consistent with this Procedure Rule, namely that petitions may be submitted directly to the relevant Strategic Director/Chief Officer.

Ongoing Review of the Constitution

41. In accordance with Minute No. 14 of the Annual Council meeting held on 16th May, 2019, the Monitoring Officer has delegated powers to update the Constitution to reflect any ongoing Council restructuring activity, changes in legislative requirements, statutory provisions or associated regulations or guidance.
42. Maintaining and updating the Constitution is an ongoing duty of the Monitoring Officer. Work will continue to identify any required updates, consolidate various provisions, remove duplication or any content that is no longer relevant. A report on the Constitution is submitted to the Annual Council Meeting in May each year, where any amendments made to the document are confirmed.
43. The annual review of the Constitution was reported to the Corporate Scrutiny Committee on 19th September, 2019. The minutes of that meeting are available on the [Committee Management Information System](#).

Finance

44. Any costs arising from compliance with the Constitution are met from existing budgets.

Law

45. Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution up to date.

Equality Impact

46. This Constitution makes provision for the discharge of the Council's powers and duties relating to equality and diversity including the consideration of any specific implications of proposals affecting children and young people.

Organisational Development/Transformation

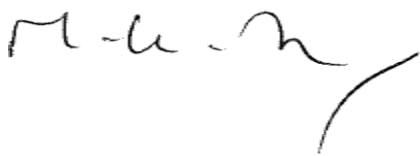
47. The ongoing review of the Constitution is undertaken within existing resources by the Monitoring Officer, supported by the Democratic Services Team. Regular monitoring and updating is necessary to ensure that the Constitution remains fit for purpose and underpins the efficient and effective operation of the Council's governance arrangements.

Commercial/Procurement

48. The Constitution includes governance documents that set a framework in which the Council's commercial/procurement activity is properly undertaken. This includes Standing Orders relating to Contracts, a review of which was the subject of a separate report to the [Audit and Standards Committee](#) on 23rd September, 2019.

Health, Wellbeing and Safety

49. Reports to Council, Cabinet and Committees are now required to include the impact on the health, wellbeing and safety of the Borough's citizens. This is consistent with building stronger, safer and more resilient communities in line with the Dudley Vision and to protect our residents' physical, and emotional health for the future.
50. Report authors should include an assessment of the impact on the community affected and the effect of any new developments on the existing population. For example: the local infrastructure of schools, General Practitioner and health provision, public transport connectivity, green spaces, safety of the community and the impact on the environment.
51. Reports should record the justification if a proposed decision is identified as having any negative health, wellbeing and safety implications.



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List of Background Documents

Appendix 1 – Council Procedure Rules
Appendix 2 - Development Control Committee Delegations

The Council's [Constitution](#) - Full copy on the Council's Website

Report and Minutes (available on the [Council's Website](#)):

Overview and Scrutiny Management Board – 1st March, 2016
Council Meeting – 10th April, 2017
Council Meeting – 3rd December, 2018
Annual Council Meeting – 16th May, 2019
Cabinet Meeting – 27th June, 2019
Council Meeting – 8th July, 2019

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1. ANNUAL MEETING OF THE COUNCIL

1.1 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 March, April or May.

The Annual Meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;**
- (iii) elect the Deputy Mayor;**
- (iv) receive apologies for absence;
- (v) approve the minutes of the last meeting(s);
- (vi) receive any announcements from the Mayor;
- (vii) elect the Leader (as and when necessary);
- (viii) receive a report from the Leader on the appointment of the Deputy Leader and Cabinet Members;
- (ix) appoint at least one Scrutiny Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;
- (x) agree the scheme of delegation (as set out in [Part 3](#) of this Constitution);
- (xi) approve a programme of meetings for the year;
- (xii) consider any other business set out in the notice convening the meeting;
- (xiii) consider any business not on the agenda which by reason of special circumstances the Mayor is of the opinion should be considered at the meeting as a matter of urgency under the provisions of Section 100B(4) of the Local Government Act, 1972.

1.2 Appointment of Committees

The Council will:

- (i) decide the size and terms of reference for Committees;
- (ii) appoint Chairs and Vice-Chairs for Committees;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules; and

- (iv) receive names of Councillors appointed by Political Groups to serve on each Committee.

2. ORDINARY MEETINGS

2.1 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 any apologies for absence.
- (iii) receive any declarations of interest;
- (iv) confirm the minutes of the last meeting as a correct record;
- (v) receive announcements from the Mayor;
- (vi) deal with any business expressly required by statute;
- (vii) receive reports from the Cabinet, Committees and Officers and receive questions and answers on any of those reports;
- (viii) consider any other business specified in the summons to the meeting;
- (ix) consider notices of motion under [Council Procedure Rule 12](#);
- (x) answer questions under [Council Procedure Rule 11](#); and
- (xi) consider any business not on the agenda which by reason of special circumstances the Mayor is of the opinion should be considered at the meeting as a matter of urgency under the provisions of Section 100B(4) of the Local Government Act, 1972.

2.2 Ordinary meetings of Committees will:

- (i) choose a person to preside if the Chair and Vice-Chair are absent;
- (ii) receive apologies for absence;
- (iii) receive declarations of interests from members in accordance with the Members' Code of Conduct;
- (iv) confirm the minutes of the last meeting as a correct record;
- (v) receive and consider reports and recommendations and take any action in connection with them;
- (vi) answer questions under [Council Procedure Rule 11.8](#).

3. EXTRAORDINARY MEETINGS

3.1 Those listed below may request that Council meetings are called in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Chief Executive or Monitoring Officer; and
- (iv) any five members of the Council 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.

3.2 The Chair of a Committee, the Chief Executive or the Monitoring Officer may call a special meeting of a Committee at any time. A special meeting of a Committee may also be called on the requisition of the required number of members of the committee delivered in writing to the Monitoring Officer. For this purpose, the 'required number' of members shall be equal to the total number of opposition members appointed to the committee concerned. The summons for the special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

3.3 The programmed dates and times of meetings, as approved by the Council, will only be changed if the Monitoring Officer is satisfied that exceptional circumstances apply following consultation with the relevant Chair and Vice-Chair (for example due to inclement weather, significant national events or lack of business).

4. PETITIONS

4.1 Petitions and memorials shall be submitted to the appropriate Directorate. Petitions will be dealt with in accordance with the Council's Petition Scheme.

4.2 Any petition or memorial relating to a planning application shall be submitted to the Strategic Director Place.

5. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES

5.1 Allocation

As well as allocating seats on committees, the Council will allocate seats in the same manner for substitute members.

5.2 All Members of each political group are able to serve as substitutes for the Members who are appointed to a Committee in line with the overall political balance. A substitute member shall only be appointed if he/she is otherwise eligible to serve on the body concerned. Any substitute nominated to serve should be notified to the Monitoring Officer prior to the commencement of the meeting in question.

A substitute member shall serve only for the duration of the meeting to which they are appointed as a substitute except in the case of a quasi-judicial body:-

- (a) where a member is required to withdraw for, or cannot attend to hear a particular case, where substitution will be permitted for that particular case.
 - (b) where an adjourned meeting is reconvened and it is essential for the substitute member to consider a case to comply with the rules of natural justice. In these circumstances, the substantive member may not attend that part of the meeting other than as an observer.
- 5.3 Substitute members will have all the powers and duties of any ordinary member of the Committee.
- 5.4 **Non-elected, non-voting co-opted members shall be entitled to appoint a substitute to represent them at a meeting provided that:**
- (a) **any substitute should be a representative of the same body that appoints the Co-opted Member;**
 - (b) **the substitute is notified to the Monitoring Officer prior to the commencement of the meeting; and**
 - (c) **the substitute is otherwise eligible to serve at the meeting concerned.**

Substitution shall not be permitted for any Co-opted Members who have voting rights.

6. TIME AND PLACE OF MEETINGS

6.1 Meetings of the Council

Ordinary meetings of the Council will be held at the Council House, Dudley, and will commence at 6.00 p.m.

6.2 Meetings of Committees

- (a) Meetings of Committees will be held at the Council House, Dudley, except that:-
 - (i) Community Forums will meet at a venue within their area; and
 - (ii) the Monitoring Officer may authorise a meeting to be held at a venue other than the Council House, Dudley.
- (b) Meetings will be held at 6.00 p.m. and will be adjourned by the Chair if the business of the meeting has not been completed by 9.30 p.m., except that:-

- (i) meetings of Community Forums will commence at 6.30 p.m; and
- (ii) the Monitoring Officer may authorise meetings to commence at times other than 6.00 p.m.

7. NOTICE OF AND SUMMONS TO MEETINGS

7.1 Meetings of the Council

Public Notice of meetings will be given in accordance with the [Access to Information Procedure Rules](#). At least five clear working days before a meeting a summons signed by the Chief Executive will be sent to every Member of the Council. 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.

7.2 Meetings of Committees

The provisions set out in Rule 7.1 above apply to meetings of Committees except that the summons for such meetings must be sent to the Members appointed to the Committee.

8. CHAIR OF MEETING

A person presiding at a meeting may exercise any lawful powers or duties of the Chair.

9. QUORUM

The quorum of a meeting of the Council will be one quarter of the whole number of members; and for a Committee the quorum will be one quarter of the whole number of members or three, whichever is the larger. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. DURATION OF MEETING OF THE COUNCIL

10.1 Interruption of the meeting

If the business of the meeting has not been concluded by 9.30 p.m. the Mayor will interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion.

10.2 Reports, recommendations and questions not dealt with

- (a) If there are reports or recommendations on the agenda that have not been dealt with by 9.30 p.m. they are deemed formally moved and seconded. No speeches will be allowed on these items and the vote will be taken in the usual way.
- (b) Any questions under [Rule 11](#) that have not been dealt with in the time period allowed or by 9.30pm shall be either addressed in writing to the relevant portfolio holder or raised at the next ordinary meeting of the Council.

10.3 Recorded or named vote

If a recorded or named vote is called for during this process it will be taken immediately.

10.4 Motions which may be moved

During the process set out in Rules 10.1 – 10.3 above, the only other motions which may be moved are that a matter be withdrawn.

10.5 Close of the meeting

When all reports and recommendations have been dealt with, the Mayor will declare the meeting closed.

11. QUESTIONS BY MEMBERS

Questions at Full Council Meetings

- 11.1 At ordinary Council meetings, Members will be invited by the Mayor to address questions to the Leader, Cabinet Members and Chairs as appropriate. The total time period allowed for questions shall be one hour. Council Procedure Rules may be suspended in appropriate circumstances.
- 11.2 Questions must relate to a matter for which the Council has powers or duties or which affect the Borough. Questions should not relate to subjects that are covered by other agenda items or which relate to individual items of casework. Questions will be dealt with individually, however, Members may be invited to ask more than one question during the meeting.
- 11.3 Members may submit written questions in advance by giving at least three clear working days' notice to the Monitoring Officer before the date of the ordinary meeting of the Council. Written questions may also be submitted to a Member who is appointed by the Council to a Joint Authority or a Joint Committee. The same notice period applies. Written questions will be dealt with first, in the order of receipt, followed by any verbal questions raised at the meeting. All questions, and the answers to them, shall be stated verbally at the Council meeting.

- 11.4 **The time limit on all individual contributions by Members when asking questions and/or providing responses shall be two minutes.**
- 11.5 **If the Member to whom a question is addressed is absent, the Leader, Deputy Leader, Vice-Chair or another Member will be asked to reply as appropriate.**
- 11.6 **Before calling on the appropriate Chair to reply, the Mayor may invite the Leader or relevant Cabinet Member to comment on the question.**
- 11.7 **Immediately after a reply is given to a question, the Member who asked the original question will be invited to ask one supplementary question if they wish. The supplementary question must relate to the original question or the answer to it. Any written replies to questions will be made available to all Members of the Council.**

Questions at Committees

- 11.8 **If two clear days' notice in writing has been given to the Monitoring Officer, a Member of a Committee may ask the Chair any question on any matter falling within the functions of that Committee.**

12 NOTICES OF MOTION

12.1 Notice

Except for motions which can be moved without notice under [Rule 13](#), written notice of every motion, signed by a Member of the Council, must be delivered to the Monitoring Officer **at least seven clear working days** before the date of the meeting of the Council.

12.2 Motion set out in agenda

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

12.3 Less than seven clear working days' notice

Where the notice of motion has been given less than seven clear working days before the next Council meeting, the Monitoring Officer shall, subject to Rules 12.2 and 12.7, insert the Notice in the summons for the next but one ordinary meeting of the Council.

12.4 Motions treated as withdrawn

If the Member who gave the notice of motion or some other Member does not move it at the Council meeting at which it is set out in the agenda it shall be treated as withdrawn.

12.5 Moving of notice of motion and time limits

A notice of motion shall be moved and seconded before being discussed by the Council. The time allowed by the Mayor to deal with all notices of motion on the agenda shall not exceed 30 minutes and any notice of motion not disposed of shall stand referred to the next ordinary meeting of the Council to be included in the summons for that meeting in accordance with Rule 12.2.

12.6 Scope

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

12.7 Invalid notices of motion

In the event of any notice of motion:-

- (a) being out of order;
- (b) containing reflections or imputations upon the conduct of any Member or officer of the Council or otherwise being of a personal or objectionable nature;
- (c) appertaining to any item of business included in a recommendation of the Cabinet, a Cabinet Member, a Committee or an Officer to the meeting at which it was intended that the motion would be dealt with; or
- (d) appertaining to the same matter as an earlier notice of motion which will be included in the same summons;

the Monitoring Officer will immediately bring it to the attention of the Mayor and the Mayor may instruct the Monitoring Officer to exclude it from the summons or, with the advice of the Monitoring Officer, alter it to bring it into due form.

The Monitoring Officer will inform the Member of the Council giving notice of the Mayor's decision.

13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chair 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 receive reports or adopt recommendations of the Cabinet, member of the Cabinet, Committee or officers and any resolutions following from them;

- (e) to establish Committees and appoint members, Chairs and Vice-Chairs to them at the Annual Meeting of the Council and any consequent resolutions;
- (f) to determine the dates for ordinary meetings of the Council and of Committees at the Annual Meeting of the Council and any consequent resolutions;
- (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 meeting;
- (l) to suspend a particular Council Procedure Rule;
- (m) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (n) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (o) to give the consent of the Council where its consent is required by this Constitution.

14. RULES OF DEBATE

14.1 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.

14.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

14.3 Secunder's speech

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

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech, including a right of reply under [Rule 14.9](#), may exceed 5 minutes.

14.5 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, 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; and
- (e) on a point of order.

14.6 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; provided that the Chair may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of business and may direct the order in which such amendments are to be put to the meeting.
- (c) If a motion or an amendment is not carried, other motions or amendments to the original motion may be moved on the original subject matter under discussion or motion.
- (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.

14.7 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.

14.8 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.

14.9 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, 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.

14.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) that the question be now put;
- (d) to adjourn a debate;
- (e) to adjourn a meeting;
- (f) to exclude the public and press in accordance with the [Access to Information Procedure Rules](#); and
- (g) to not hear further a member named under [Rule 20.3](#) or to exclude them from the meeting under [Rule 20.4](#).

14.11 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) that the question be now put;
 - (ii) to adjourn a debate; or
 - (iii) to adjourn a meeting.
- (b) If a motion that the question be now put is seconded and the Chair 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 or any amendment to the vote.
- (c) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair 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.

14.12 Point of order

A member may raise a point of order at any time. The Chair will hear them 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 Chair on the matter will be final.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

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

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least ten members from at least two political groups. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. VOTING

16.1 Majority

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.

16.2 Chair's casting vote

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

16.3 Method of Voting

Unless a named vote is demanded under Rule 16.4 **the Chair will take the vote by show of hands, use of electronic voting or if there is no dissent, by the affirmation of the meeting.**

16.4 Named vote

If six members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be entered into the minutes. A named vote will also be taken if this is required by any statutory provision (eg: on a vote concerning the setting of the Council Tax).

16.5 Right to require individual vote to be recorded in the minutes

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

16.6 Voting on appointments

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

17. MINUTES

17.1 Signing the minutes

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

17.2 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 purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

18. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to speak

When a member speaks at full Council they must stand and address the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order. Members shall speak of each other in Council during transaction of business by the respective titles of "Mayor" or "Councillor".

20.2 Mayor standing

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

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

20.5 General disturbance

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

21. DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

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

21.2 Clearance of part of meeting room

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

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All of these Council Rules of Procedure except [Rule 16.5](#) and [17.2](#) 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.

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. APPLICATION TO COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Only Rules 2.2, 3.2, 5-9, 11-22, 24.3, 24.4 and 25 (but not Rules 20.1 and 20.2) apply to meetings of committees.

24. GENERAL

24.1 Declaration of Interests by Members

24.1.1 Members shall be required to declare interests in accordance with the Members' Code of Conduct. The Code also makes provisions for dispensations in appropriate circumstances.

24.1.2 Members must disclose and withdraw from participating in respect of any matter in which they have a disclosable pecuniary interest. Members must make a verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting where an item of business which affects or relates to the subject matter of that interest is under consideration. The interest must be disclosed at or before the consideration of the item or as soon as the interest becomes apparent.

24.1.3 In addition, if Members attend a meeting at which any item of business is to be considered and they have a non-disclosable pecuniary interest or a non-pecuniary interest in the item, they must make a verbal declaration of the existence and nature of the interest at or before the consideration of the item or as soon as the interest becomes apparent. Members should then withdraw from the meeting if necessary taking account of the provisions set out in paragraph 24.1.4 below.

24.1.4 Members must declare interests and withdraw from business in appropriate circumstances where:

- A decision on a matter might reasonably be regarded as affecting the wellbeing or financial standing of the Member or a member of his/her family or a person with whom the Member has a close association to a greater extent than it would affect the majority of the Council Tax Payers or inhabitants of the ward or the Council's area; or
- It relates to or is likely to affect any of the disclosable pecuniary interests but in respect of a member of the Member's family (other than a relevant person defined in the Appendix to the Members' Code of Conduct) or a person with whom he/she has a close association.

24.2 Declarations of interests by officers

24.2.1 The Monitoring Officer shall record the particulars of any notice given by an officer of the Council under Section 117 of the Local Government Act, 1972, of a pecuniary interest in a contract and records shall be open during office hours to the inspection of any member of the Council.

24.3 Responsibilities of officers

24.3.1 Where a matter falls to be determined by the Chief Executive, a Strategic Director or a Chief Officer, then that matter may be determined by the Chief Executive, the Strategic Director or Chief Officer or by any other senior officer who is duly authorised in writing to determine such matter.

24.4 Motions affecting persons employed by the Council

If at a meeting of the Council matters relating to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or the conduct of any person employed by the Council, are or are likely to be under discussion the Mayor shall forthwith call upon the Council to decide whether or not the power of exclusion of the public under Section 100A of the Local Government Act, 1972 shall be exercised.

24.5 Declarations of Relationship

Every member and employee of the Council shall disclose to the Monitoring Officer any relationship known to them to exist between them and any person whom they know is a candidate for an appointment under the Council. A candidate shall be deemed to be related to a member or employee of the Council if they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of the member or employee of the Council; or of the partner of such persons.

24.6 Other Matters

No person shall smoke in the room where any meeting is taking place. This includes the use of electronic cigarettes or similar.

The public proceedings of full Council meetings shall be recorded and broadcast on the Council's internet site. This is, however, subject to the Mayor (or the person presiding) having the discretion to terminate or suspend the web cast if he/she is of the opinion that continuing to web cast would, in any way, prejudice the conduct of the Council's business. Recordings of the full Council meeting will be made by using the fixed audio/visual equipment in the Council Chamber as authorised by the Council.

The Council has no objection to recording, filming, photography, use of social media, blogging or any similar electronic facilities during any meetings to which the public have access provided that the use of any equipment does not disrupt the meeting or the lawful transaction of business.

25. INTERPRETATION OF COUNCIL PROCEDURE RULES

The ruling of the Mayor or Chair of a Committee as to the construction or application of any of these Council Procedure Rules, or as to any proceedings of the Council or Committee, shall not be challenged at any meeting of the Council or Committee.

Development Control Committee

(1) Planning and Conservation

Functions relating to Town and Country Planning and development control as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) (as amended).

Determination of Planning Applications

(2) Determination of all applications for planning permission where:-

- (a) the proposed development is considered to be of strategic significance and where the recommendation of the Strategic Director Place is to grant planning permission for development defined in the Town and Country Planning (Consultation) (England) Direction 2009;
- (b) The Strategic Director Place, following formal consultation with the Chair (or in his or her absence, the Vice-Chair) refers, as he sees fit, any planning application to the Development Control Committee for its determination and for such decisions to be recorded;
- (c) **A request is received from an elected Member from the ward in which the application is located provided that the request is in writing; gives material planning reasons for the request; and is received before the conclusion of the first period of public consultation on that application; or**
- (d) notwithstanding the paragraphs above, all Community Infrastructure Levy (CIL) liable applications where exceptional circumstances relief is supported, under Sections 55 to 57 of the CIL Regulations 2010 (as amended).

(3) Trees

To consider representations for and objections to Tree Preservation Orders made under Sections 198, 199 and 200 of the Town and Country Planning Act, 1990 and subsequently to determine such orders.

(4) Commons registration

The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations.

(5) Ombudsman

The consideration of reports by the Ombudsman into complaints of maladministration and the local settlement of complaints to the Ombudsman for sums above £5,000.

(6) Charging for Discretionary Services

Power to charge for discretionary services falling within the terms of reference of the Committee.

Development Control Committee – Onward Delegations

Strategic Director Place following Consultation with the Chair of the Development Control Committee

- (1) With the exception of applications referred to the Development Control Committee in accordance with paragraph (2) above, the Strategic Director Place shall determine all other planning, tree and allied applications with significant material planning representations contrary to the recommendation following formal consultation with the Chair (or in his or her absence, the Vice-Chair) subject to the following procedure:-
- (a) Determination shall be in the light of a full and detailed report by the Strategic Director Place, following formal consultation with the Chair (or in his or her absence, the Vice-Chair) of the Development Control Committee and such decisions shall be recorded and made available for public inspection;
 - (b) There shall be provision for the Strategic Director Place, following formal consultation with the Chair (or in his or her absence, the Vice-Chair) to refer as he sees fit, any planning application to the Development Control Committee for its determination and for such decisions to be recorded;
 - (c) There shall be provision for any Ward Member where the application is located, to request that any planning application be referred to the Development Control Committee for determination **provided the request is made in writing; gives material planning reasons for the request; and the request is received before the conclusion of the first public consultation period.**

Strategic Director Place

- (1) The day to day management and control of the Directorate and the administration of the service in accordance with the Council's policies and decisions.

Determination of applications

- (2) The approval of all other applications except where:

- (a) the proposed development is considered to be of strategic importance or where the recommendation of the Strategic Director Place is to grant planning permission for development defined in the Town and Country Planning (Consultation)(England) Direction 2009;
- (b) the proposed development would be of wider significance, for example being accompanied by an environmental impact assessment or significantly impacting upon a neighbouring authority;
- (c) notwithstanding paragraphs (a) and (b) above, all Community Infrastructure Levy (CIL) liable applications where exceptional circumstances relief is supported, under Sections 55 to 57 of the CIL Regulations 2010 (as amended).

Provided that:-

- (a) the period for statutory publicity and consultation has expired;
 - (b) there is no departure from the Council's planning policies;
 - (c) no referral to Committee has been made by a Ward Member, **in writing, with material planning reasons and received within the first period of public consultation.**
- (3) The refusal of applications for development of land where there is conflict with the NPPF or Local plan.
 - (4) The determination of applications under the Town and Country Planning (Control of Advertisements) Regulations 2007 and the service of discontinuance notices thereunder.
 - (5) **The determination of all development that affects the stopping up, diversion, creation or setting of highways, where planning permission is required.**

Trees

- (6) To revoke, vary or modify Tree Preservation Orders.
- (7) Powers relating to the preservation of trees.
- (8) Power to licence planting, retention and maintenance of trees etc in part of the highway.
- (9) The determination of requests for works to trees in Conservation areas.
- (10) Power to licence planting, retention and maintenance of trees etc in part of the highway, subject to consultation with the relevant ward councillors.

- (11) The service of Notices under Sections 207, 208 and 209 of the 1990 Act requiring replacement trees.
- (12) The administration of all decisions relating to Part 8 of the Anti-Social Behaviour Act, 2003 (complaints about high hedges).
- (13) The service of Remedial Notices under Sections 69, Part 8 of the Anti-Social Behaviour Act 2003.

Enforcement

- (14) The removal or obliteration of placards or posters under Section 225 of the Town and Country Planning Act 1990 (or as amended).
- (15) The issue of Building Preservation Notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 (or as amended).
- (16) The issue of Listed Building Enforcement Notices under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act, 1990.
- (17) The issue of Notices of intention to execute urgent works for the preservation of unoccupied buildings under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (18) The issue of Notices requiring the proper maintenance of land and premises under Section 215 of the Town and Country Planning Act, 1990 (as amended).
- (19) The issue and service of Planning Contravention Notices under Section 1 of the Planning and Compensation Act 1991 and Sections 171C and 171D of the Town and Country Planning Act 1990 (as amended).
- (20) The issue and service of Breach of Condition Notices under Section 187A of the Town and Country Planning Act, 1990 (as amended).
- (21) The serving of enforcement notices and all other enforcement powers and functions under the Town and Country Planning Act 1990 (as amended)
- (22) To serve stop notices and temporary stop notices, together with any necessary enforcement notice under the Town and Country Planning Act 1990 (as amended).
- (23) The issue of Notices under Section 103 of the Law of Property Act 1925 (enforced sales) and the taking of any appropriate action under any enactment in respect of an enforced sale of a property and/or land.

Ombudsman

- (24) The local settlement of complaints to the Ombudsman up to a maximum of £5,000.

Building Regulations

- (25) The determination of applications for approval of plans, and the inspection of construction works in association with those applications, to ensure compliance under the Building Regulations and Sections 16, 19, 21 (3) (4) (5) (6), 24 and 25 of the Building Act 1984 and Section 16 of the Clean Air Act 1993.
- (26) The determination of applications for relaxation of the Building Regulations and the making of representations to the Secretary of State in connection with them.
- (27) The issue of Certificates and Notices under the Building Act 1984 relating to the Building Regulations (or as amended).

Miscellaneous

- (28) The making of Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order (England) 2015 and the confirmation of such directions under Article 6 which are unopposed.
- (29) The giving of written notice to the Council that he proposes to seek permission to develop on behalf of the Committee, in respect of any future proposed development.
- (30) Under the Hedgerow Regulations 1997:-
 - (i) the determination of Hedgerow Removal Notices and where relevant the issue of Hedgerow Retention Notices, pursuant to regulation 5, except in cases where the Strategic Director Place is responsible for the management of the land on which the hedgerow is situated.
 - (ii) the issue of a Hedgerow Replacement Notice pursuant to Regulation 8.
 - (iii) the authorisation in writing for any person to enter land pursuant to Regulation 12.
- (31) The issue of screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment Regulations) 2017.
- (32) The issue of responses to consultations from other Local Planning Authorities arising from Article 10 of the Town and Country Planning General Development Procedure Order (England) 2015 (as amended).
- (33) The issue of a notice of intent not to determine an application under Section 70A of the Town and Country Planning Act, 1990 (as amended).
- (34) The issue of notices requiring the submission of further information to enable an application to be determined, including:
 - (i) Directions under Article 3(2) of the Town and Country Planning General Development Procedure Order, (England) 2015 (as amended).

- (ii) Directions under Article 4 of the Town and Country Planning (Applications) Regulations 1988.
 - (iii) Article 19 of the Town and Country Planning (Environmental Impact Assessment Regulations) 2017.
- (35) All other matters which are not dealt with by the Development Control Committee, provided that the decision does not conflict with any other decision taken by the Council or Cabinet.
- (36) The registration of common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:
- (i) an exchange of lands affected by an Order under Section 19(3) of or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or
 - (ii) an Order under Section 147 of the Inclosure Act 1845.
- (36) Decisions required in accordance with Contract Standing Orders.
- (37) **The power to stop up or divert highways under Section 247 and 248 of the Town and Country Planning Act 1990**

Community Infrastructure Levy (CIL)

- (38) To determine all CIL Liable planning applications, except where the exceptional circumstances relief policy is supported.
- (39) To issue CIL Liability Reminders.
- (40) To serve Warning Notices and CIL Stop Notices under Sections 89 to 94 of the CIL Regulations 2010 (as amended).
- (41) The issue of Notices under Part 17, Classes K & M of Paragraph 5 and the making of associated directions of the Town and Country Planning (General Permitted Development) Order 2015 (or as amended).
- (42) Following formal consultation with the Lead for Law and Governance, the authorisation of amendments to/and removal of completed Section 106 agreements and Section 106 agreements which have been authorised but not completed.

Lead for Law and Governance

The Lead for Law and Governance in his own right shall exercise the following powers and duties provided that such exercise does not conflict with a decision taken by the Council or Committee:

- (1) The institution of prosecution proceedings under Sections 171(g), 179 and 183, 184 and 187 or the 1990 Act for breaches of enforcement, stop notices and temporary stop notices.

- (2) The institution of prosecution proceedings under Section 216 of the 1990 Act for non-compliance with a notice as to waste land.
- (3) The institution of prosecution proceedings under Section 43 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 for non-compliance with a Listed Building Enforcement Notice.
- (4) The institution of prosecution proceedings under Sections 7, 8 and 9 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 for unlawfully executing works to a listed building.
- (5) The institution of prosecution proceedings under Section 59 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 for damaging a listed building.
- (6) The institution of prosecution proceedings under Section 224 of the 1990 Act for contraventions of the Town and Country Planning (Control of Advertisements) Regulations 1992 and all other matters relating to the Town and Country Planning (Control of Advertisements) Regulations 1992.
- (7) The institution of prosecution proceedings under Sections 189 and 190 of the 1990 Act for failing to comply with Orders under Sections 102-104 of the 1990 Act (Discontinuance Orders).
- (8) The institution of prosecution proceedings under the Building Act 1984 in respect of offences relating to the Building Regulations.
- (9) The service of notices requiring information as to interests in land and the institution of prosecution proceedings relating thereto under Section 330 Town and Country Planning Act 1990.
- (10) To give written consent in respect of rights of entry for enforcement purposes under section 11 of the Planning and Compensation Act 1991, and Sections 196A, 196B and 196C of the Town and Country Planning Act 1990 (as amended).
- (11) The prosecution of a person who removes or allows another person to remove a hedgerow in contravention of the Regulations, the application for injunctions under Regulation 11, and the prosecution of any person who wilfully obstructs a person acting in the exercise of a right of entry under Regulation 14 of the Hedgerow Regulations, 1997.
- (12) The making (and confirmation where unopposed) of Orders under Sections 257 and 258 of the Town and Country Planning Act, 1990 to stop up or divert any footpath or bridleway.
- (13) The making of an application for an injunction restraining a breach of planning control, in consultation with the Strategic Director Place and the Chair of the Development Control Committee.

- (14) To vary a Tree Preservation Order if no new trees or woodlands are added to the Order.
- (15) To vary a Tree Preservation Order, where new trees or woodlands are added to the Order, provided that there are no objections from any person affected by the Order.
- (16) The making (and confirmation where unopposed) of Tree Preservation Orders under Sections 198, 199, 200 and 201 of the 1990 Act, in consultation with the Strategic Director Place.
- (17) The institution of prosecution proceedings under Section 210 of the 1990 Act for contraventions of Tree Preservation Orders.
- (18) The institution of prosecution proceedings under Sections 211-214 of the 1990 Act for causing damage to trees in Conservation Areas.
- (19) To institute proceedings under the Anti-Social Behaviour Act 2003 and the Anti-Social Behaviour, Crime and Policing Act 2014 insofar as the proceedings relate to the Council's statutory functions and the functions of this Committee.
- (20) To institute prosecution proceedings under Section 93 to 111 of the Community Infrastructure Levy Regulations 2010 (as amended) for non compliance with a CIL Liability Notice.
- (21) To institute proceedings in relation to the Enforced sale procedure under s103 Law of Property Act 1925 as the proceedings relate to the Council's statutory functions and the functions of this Committee.
- (22) To institute proceedings in relation to the Proceeds of Crime Act 2002 as the proceedings relate to the Council's statutory functions and the functions of this Committee.

REFERRAL TO DEVELOPMENT CONTROL COMMITTEE

Notwithstanding the above, the Strategic Director Place may refer any matter to the Development Control Committee for consideration whether or not it falls within delegated powers and duties.

Where the Chair or Vice-Chair is consulted under delegated powers, the Chair or Vice-Chair may refer the application to the Development Control Committee for determination. In the event that the written confirmation is received that the application can be determined under delegated powers, or alternatively, within 7 days of consultation a request is not made for referral, the application may be determined under delegated powers.

The above powers are without prejudice to Members exercising their rights under the Council's Constitution, where any Ward Member may request in writing, giving material planning reasons, that any matter so delegated to the Strategic Director Place be referred to the Development Control Committee for determination, provided that request is received within the first public consultation period.

When a Ward Member requests in writing that an application is referred to the Development Control Committee, they must state that they either object to or support the application and give their material planning reason(s).

The application will only be reported to Committee under these criteria where:

- **the recommendation by the Strategic Director Place is either for approval and the Ward Member has objected to the application; or**
- **where the recommendation is for refusal and the Ward Member has supported the application; and**
- **where the Ward Member confirms in their written request that they will attend the Development Control Committee to speak in accordance with the Public Speaking Protocol.**

If a Ward Member does not confirm the wish to speak or to attend the Development Control Committee to speak, the application will be withdrawn from the agenda and determined under the delegated powers outlined in the Constitution.