

Date of issue: 17th May 2011

MEETING:

COUNCIL

To All Members of Slough Borough Council

DATE AND TIME:

THURSDAY, 19TH MAY, 2011 AT 7.30 PM

VENUE:

COUNCIL CHAMBER, TOWN HALL, BATH ROAD,
SLOUGH

**DEMOCRATIC SERVICES
OFFICER:
(for all enquiries)**

CATHERINE MEEK
01753 875011

SUPPLEMENTARY PAPERS

The following Papers have been added to the agenda for the above meeting:-

Items 6 & 9 were not available for publication with the rest of the agenda.

PART 1

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
6.	Review of the Council's Constitution	1 - 86	
9.	Appointment of Monitoring Officer	87 - 90	

N.B. The revised 'basket' of Seats, proposed Committee allocations and outside body nominations will be tabled at the meeting.

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SLOUGH BOROUGH COUNCIL

REPORT TO: Annual Council

DATE: 19th May, 2011

CONTACT OFFICER: Member Panel on the Constitution/Catherine Meek
(For all enquiries) Deputy Borough Secretary
01753 875011

WARD(S): All

PART I
FOR DECISION

REVIEW OF THE COUNCIL'S CONSTITUTION

1 Purpose of Report

To consider recommendations for proposed amendments to the Council's Constitution.

2 Recommendations

The Council is requested to consider the recommendations for amendment to the Constitution as detailed in the attached papers and resolve:-

- (a) That the proposed changes to the Council's current Constitution be endorsed subject to any further amendments the Council may agree; and
- (b) That the Cabinet be requested to consider and endorse the Officer Scheme of Delegation insofar as it relates to executive functions.
- (c) That the Deputy Borough Secretary be authorised to make all necessary and consequential administrative alterations to the Constitution as required.

3 Key Priorities

- 3.1 The Constitution provides an important means of enabling citizens and stakeholders to understand how the Council makes decisions and who is responsible for those decisions.

4. Other Implications

Financial

- (a) There are no financial implications in this report.

(b) Legal and Human Rights Implications

Section 37 of the Local Government Act 2000 requires each local authority to prepare, keep up to date and publicise the document known as the Council's Constitution. There are no Human Rights Act or workforce implications associated with this report.

5 Supporting Information

- 5.1 The Constitution is at the heart of the Council's business. It allocates power and responsibility within the Council and between it and others. It also regulates the behaviour of individuals and groups through Codes of Conduct, Protocols and Procedure Rules. The Constitution is designed to meet all the necessary statutory requirements for instruments of governance and to include matters traditionally covered by local authority Standing Orders, Financial Regulations, Schemes of Delegation and terms of reference. It is a coherent single document which can be used as a comprehensive point of reference by individuals or organisations inside and outside of the Council.
- 5.2 The basic distinction in the presentation of the Constitution is between Articles, Procedure Rules and associated material. Articles are intended to set the overall framework and in general will not be subject to frequent change. They are about *what* is to be done and by *whom*. Procedure Rules, Codes of Conduct and other material located after the Articles are broadly about how the Articles are put into effect and may be subject to more frequent change.

Review of the Constitution

- 5.3 At its meeting in May 2010 the Council agreed that the Member Panel on the Constitution be re-appointed to keep the Constitution and its operation under review.
- 5.4 Since its revision last year there have been a number of suggestions for revision/amendments to the existing Constitution which have arisen as a result of:-
- New legislative requirements
 - Amendments suggested to manage business more efficiently
 - Minor drafting amendments/typographical errors with minor corrections
 - Revisions already agreed by the Council in the course of the year
 - Proposals from Members

Meetings of Member Panel on the Constitution

- 5.5 The Member Panel on the Constitution has met to give consideration to proposed changes to the Constitution. Councillor Swindlehurst chaired the Panel meetings.
- 5.6 The Panel has given detailed consideration several parts of the Constitution and recommendations of the Panel are set out with amendments shown in italic and strikeout on the attached extracts from the Constitution (Appendix 2).
- 5.7 A summary of the key changes proposed is set out in Appendix 1.

6 Views of the Monitoring Officer

- 6.1 The Council's Constitution gives authority to the Monitoring Officer to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution may only be approved by the Council after consideration of the proposal by the monitoring Officer.
- 6.2 The Monitoring Officer has considered the proposed changes to the Constitution and has recommended them to the Council for consideration.

7 Format and Distribution of the Constitution

The Constitution is on the Council's website and a copy will be provided to each Member of the Council following the annual meeting each year. Notification of changes will be detailed in the Members' Bulletin.

8 Background Papers

Agenda and minutes – Member Panel on the Constitution.

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COUNCIL CONSTITUTION – SUMMARY OF THE MAIN PROPOSED AMENDMENTS

PART 1 – SUMMARY AND EXPLANATION

The summary and explanation is a short and accessible description of the Council's Constitution and method of governance.

No Changes proposed – minor administrative wording changes only – not reproduced.

PART 2 – ARTICLES

Not reproduced in full.

No Changes proposed to Articles other than:

Article 6 – Overview and Scrutiny Committee – Amendment to Overview and Scrutiny Panels (Reduced from 4 to 3)

Article 7 – The Executive – Amended to take into account strong leader requirement

Article 9 – The Standards Committee – Amended to exclude Group Leaders from being appointed to the Committee.

Article 13 – Officer Roles and Statutory Office functions – Will be amended to reflect new senior management structure

Article 18 – Petitions Scheme – amended to remove the right to present a petition containing 25 signatures to a meeting of the full council

Articles 6,7,9 and 18 attached.

PART 3 - RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATION

This section of the Constitution summarises which part of the decision making process is responsible for which functions. It includes the Scheme of Delegation to Officers. The allocation of functions is set out in a tabular format, Table 1 identifying local choice functions, Table 2 Council functions i.e. non Executive and Table 3 The Executive functions to be discharged by the Cabinet.

Not reproduced – minor change to Council/Committee Structure to take account of reduction of Scrutiny Panels from 4 to 3.

Table 1 Responsibility for Local Choice Functions

No changes proposed – not reproduced.

Table 2 Responsibility for Council Functions

Council

No changes proposed – not reproduced

Planning Committee

No changes proposed – not reproduced

Licensing Committee

No changes proposed – not reproduced.

Standards Committee

Amended to exclude Group Leaders from being appointed to the Committee. – not reproduced

Employment and Appeals Committee

No changes proposed – not reproduced

Table 3 Responsibility for Executive Functions

No changes proposed – not reproduced.

Scheme of Delegation to Officers and Proper Officer Appointments

Not reproduced - Amended to take account of re-reorganisation/restructuring/revised job titles where necessary.

General Delegations

No Changes proposed.

Specific Delegations:

- Amended to reflect revised delegations with the aim of streamlining planning/Development – Extract attached.
- Amended to include additional delegation under the Town and Police Clauses Act 1847- Extract attached.

Cabinet Portfolios - *No changes proposed – not reproduced.*

Appeals Panels and Other Bodies – Amended SACRE Membership - to limit the term of membership to three years – not reproduced

PART 4 - COUNCIL PROCEDURE RULES

SUMMARY OF MAIN PROPOSED AMENDMENTS

Rule	Heading	Proposed Change
Rule 1.1	Annual Meeting of Council	Amend to reflect 'strong' leader model
Rule 1.2	Casual Vacancies on Committees	Amend rule to authorise the Deputy Borough Secretary to appoint to casual vacancies on Committees etc

Rule 8	Questions by the Public	Amend 9.1 with regard to written responses.
Rule 10	Questions by Members	Rule amend to enable members to submit questions at any point during the year to increase the opportunity to ask topical questions as they arise.
Rule 13	Consideration of Cabinet and Committee Recommendations/Minutes	Amend to remove requirement for minute books to be circulated at the Council meeting.
Rule 14	Motions on Notice	Amend to include a procedure to be followed for a Motion to remove the Leader of the Council.
Rule 15	Motions without Notice	Amend to include procedure for motion of no confidence in the Mayor.

4.2 **Access to Information Procedure Rules** - *No changes proposed – not reproduced.*

4.3 **Budget and Policy Framework Procedure Rules** - *No changes proposed – not reproduced.*

4.4 **Executive Procedure Rules** – *Amended to reflect ‘strong’ leader model*

4.5 **Overview and Scrutiny Procedure Rules** – *Not reproduced. Amended to reflect reduction of Scrutiny Panels from 4 to three and remove need for appointments to Joint East Berkshire Scrutiny Panel. Will be amended to incorporate revised Scrutiny and agenda management practices as agreed by the Overview and Scrutiny Committee.*

4.6 **Financial Procedure Rules** – *No Changes proposed – not reproduced.*

4.7 **Officer Employment Procedure Rules** - *No Changes proposed – not reproduced.*

PART 5 – ETHICAL FRAMEWORK

5.1 **Local Code of Conduct for Members** - *No Changes proposed – not reproduced.*

5.2 **Planning Code for Conduct for Members and Officers** – *Amended to provide flexibility and streamline procedures.*

5.3 **Licensing Code of Conduct for Members and Officers** – *No Changes proposed – not reproduced*

5.4 **Local Code of Conduct for Employees** - *No changes proposed – not reproduced.*

5.5 **Local Code of Conduct Governing Relations between Elected Members and Council Employees** - *No changes proposed – not reproduced*

5.6 **Whistleblowing Policy and Procedure** – *Amended to reflect restructuring/reporting lines – Not reproduced.*

5.7 **Monitoring Officer Protocol** - *No changes proposed – not reproduced.*

- 5.8 **Guidance on Gifts and Hospitality** - *No changes proposed – not reproduced.*
- 5.9 **Anti-Fraud and Corruption Strategy in Policy** - *No changes proposed – not reproduced.*
- 5.10 **Joint Protocol on seeking the views of the External Auditor on the legality of Council transactions** - *No changes proposed – not reproduced.*
- 5.11 **Policy Statement on Corporate Governance** - *No changes proposed – not reproduced.*
- 5.12 **Guidance for Members and staff in relation to Members' involvement in Housing and Council Tax Benefits work** - *No changes proposed – not reproduced*

PART 6 MEMBERS ALLOWANCES SCHEME

No amendments proposed - not reproduced. Schedule of payments updated.

PART 7 MANAGEMENT STRUCTURE

Not reproduced – amended to reflect revised senior management structure

ARTICLE 6 – OVERVIEW AND SCRUTINY

- 1 The Council will appoint an Overview and Scrutiny Committee and Panels as shown in the table below to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations made thereunder.

Committee/Sub Committee	Scope
Overview and Scrutiny Committee	<ul style="list-style-type: none"> • All Overview and Scrutiny functions on behalf of the Council. • The co-ordination of the Overview and Scrutiny work plan including the allocation of issues to Scrutiny Panels. • Consideration of the details of the Executive's Forward Plan.
<p>Panels:</p> <ul style="list-style-type: none"> • Health • Education & Children's Services • Community, Leisure and Environment • Neighbourhoods and Renewal • <u>Neighbourhood and Community Services</u> 	<p>Each Scrutiny Panel shall be responsible for:</p> <ul style="list-style-type: none"> • Scrutiny of functions falling within the scope of the Cabinet portfolios allocated to them and any non-executive functions or matters associated with those portfolio functions. • Matters within its area of responsibility which have been : <ul style="list-style-type: none"> • Referred to it by the Council or Overview and Scrutiny Committee • Referred to it by the Overview and Scrutiny Committee on receipt of a member call in • Agreed by the Panel for inclusion in its agenda plan or work programme. <p>Each Panel shall make recommendations or reports to the Overview and Scrutiny Committee, Cabinet, other Committee or Council as appropriate.</p>

General Role

- 2 Within its terms of reference, the Overview and Scrutiny Committee will:
- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- (ii) make reports and/or recommendations to the full Council and/or the Executive and/or any other Committee in connection with the discharge of any functions;
 - (iii) consider any matter affecting the Borough or its inhabitants; and
 - (iv) review decisions made but not yet implemented by the Executive and any other Committee, where these have been called-in.
- 3 The Committee (and its Panels) will meet in public unless confidential or exempt information is being considered.

Specific Functions

- 4 **Policy Development and Review** - The Overview and Scrutiny Committee may:
- (i) Assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question Members of the Executive, other Committees and Directors about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- 5 **Audit Functions** - The Overview and Scrutiny Committee shall receive, on an exception basis, information from the Audit Committee through the Performance Report. In particular the following information will be provided:
- Reports on abnormal issues arising from audit recommendations including poor performance by directorates in implementing agreed recommendations within planned timescales.
 - Special audit investigation reports.
 - Head of Internal Audit & Risk Management's annual report.
 - External Audit Management Letters and other reports
6. **Scrutiny Functions** – The Overview and Scrutiny Committee shall:
- (i) review and scrutinise the decisions made by and performance of the Executive, Committees and Council Officers both in relation to individual decisions and over time;

- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets, data quality and/or particular service areas;
- (iii) question Members of the Executive, Committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

7 **Annual Report.** The Overview and Scrutiny Committee must report annually to the full Council on future work programmes and amended working methods if appropriate.

Proceedings of Overview and Scrutiny Committee

8 The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure rules set out in part 4 of this Constitution.

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ARTICLE 7 – THE EXECUTIVE

Role

- 1 The Leader and Cabinet~~Executive~~ will carry out all of the Authority's functions which are not the responsibility of any other part of the Authority whether by law or under this Constitution.

Form and Composition

- 2 The Cabinet~~Executive~~ will consist of the ~~Executive~~ Leader who will be appointed by the Council together with the Deputy Leader and at least one but not more than eight, Members appointed to the Cabinet~~Executive~~ by the Leader~~Council on the nomination of the Executive Leader~~.
- 3 The Cabinet~~Executive~~ cannot include the Mayor or Deputy Mayor.
- 4 Cabinet~~Executive~~ Members will be known as Commissioners.

Leader

- 5 The Leader will be a Member elected to the position of Leader by the Annual meeting of the Council starting from May 2011, or a subsequent Council meeting if the Annual Meeting fails to elect the Leader.
- 6 The Leader will hold office for a period of up to four years from the date of appointment by the Council or for such lesser period of time as the Leader holds office as a Councillor. The Leader's term of office will extend to the annual meeting of Council immediately following his or her retirement or failure to get re-elected and at that meeting another leader will be appointed by the Council and the former Leader's term of office ends. until
- 7 The Leader's term of office will cease :
- (a) if he/she resigns from the office; or
 - (b) if he/she is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
 - (c) if he/she is no longer a Member; or
 - (d) ~~the commencement of the next annual meeting of the Council except that the Council may remove the Leader from office at an earlier date~~ by resolution of the Council.

Other Cabinet~~Executive~~ Members (Commissioners)

- 6 At the first meeting of Cabinet each year following the Council's Annual Meeting, the Leader will, for that Municipal Year:
- (a) Determine the number of Councillors that he/she will appoint to the Cabinet as Commissioners and the portfolios they will hold,
 - (b) Appoint -Councillors to the Commissioner portfolios.

- 7 Commissioners shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Members; or
- ~~(d) — (d) — until the commencement of the next annual meeting of the Council~~
- ~~(e) — or until they are removed from office at an earlier date by resolution of the Council.~~
- (e) they are removed from office by the Leader of the Council.

~~Deputy Leader~~

~~8 8 — The Leader will appoint the Deputy Leader at the first meeting of Cabinet held after his/her election as Leader. The Deputy Leader will hold office until the end of the Leader's term of office, or until:~~

- (a) he/she resigns from office or
- (b) -he/she is removed from officer by the Leader
- (c) He/she is suspended from being a Councillor under Part III of the Local Government Act 2000(although he/she may resume office at the end of the period of suspension) or
- (d) He/she is no longer a Councillor.

8.1 The Deputy Leader will act in place of the Leader if the Leader is unable to act

8.2 If for any reason both the Leader and the Deputy Leader are unable to act or if both offices are vacant, the remaining Commissioners will, until the Council has elected a new Leader either

- (a) provide collective executive leadership of the Council or
- (b) arrange for one of their number to act in place of the Leader.
- (c)

Proceedings of the CabinetExecutive

7 Proceedings of the CabinetExecutive shall take place in accordance with the Executive procedure rules set out in Part 4 of this Constitution.

Responsibility for Functions

8 The Deputy Borough Secretary Leader will maintain a list in Part 3 of this Constitution setting out where responsibility lies for the exercise of particular executive functions.

ARTICLE 9 – THE STANDARDS COMMITTEE

Standards Committee

- 1 The Council will establish a Standards Committee.

Composition

- 2 General

The Standards Committee does not have to comply with the political proportionality rules set out in Section 15 of the Local Government and Housing 1989 Act. Parish Council business will be conducted through the main committee and this arrangement will be reviewed after one year.

- 3 Membership

The Standards Committee will be composed of at least:

- (a) Six elected Members (which shall not include the Leader, Commissioners, Mayor and Deputy Mayor, ~~and the~~ Chairs and Vice Chairs of Planning and Licensing Committee and Group Leaders) at least three of which must be drawn from the Opposition
- (b) Four persons who are not Members or Officers of the Council or any other body having a standards committee (Independent Members).
- (c) One Member from each of the three Parish Councils wholly or mainly in the Council's area (a Parish Member)

- 4 Independent Members, and the Parish Council Members and, in his/her absence, his/her Standing Deputy will be entitled to vote at meetings.

- 5 Parish Members.

- (a) At least one Parish Member must be present when matters relating to those Parish Councils or their Members are being considered.
- (b) Each of the Parish Councils will nominate the Parish Council Member to serve on the Committee. In the event of more than one nomination being received in respect of the Parish Council Member the matter will be referred to the Council for agreement on the recommendation of the Standards Committee.

Quorum

- 6 The quorum of the Committee shall be

- (a) Subject to (b) below a minimum of four Members including at least one Independent Member. Where matters solely relating to parish councils or their members are to be considered one of the three Parish Council Members must be present.

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ARTICLE 18 - PETITIONS SCHEME

The Council welcomes petitions and recognises that they are one way in which people can let the Council know of their concerns. This Scheme, made under Section 11 (1) of the Local Democracy, Economic Development and Construction Act 2009, is intended to establish a clear process for how petitions submitted to the Council will be dealt with.

A. INTRODUCTION

- 1 The Scheme was approved by the Council on (date) and is available on the Authority's website: www.slough.gov.uk.
- 2 The Scheme covers:
 - What constitutes a petition
 - how people who live, work or study in the Authority's area can organise or sign a petition and secure a statutory response
 - how specific responses can be triggered by achieving prescribed levels of Signatory support
 - *who* will do *what* and to what performance standards
 - how petition organisers can seek a review of the Council's response
 - how the Council will monitor the effectiveness of this Scheme.
- 3 The officer responsible for this Petitions Scheme, and its operation is the Deputy Borough Secretary whose contact details are as follows: Democratic Services, Town Hall, Bath Road Slough SL1 3UQ email Catherine.meek@slough.gov.uk

B. WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION

- 4 Something will be treated as a petition if it is identified as being a petition, or if it seems to the Council, that it is intended to be a petition.
- 5 A valid Petition must:
 - Be initiated by a Petition Organiser whose details have been supplied to the Council.
 - Relate to the Council's functions or to the economic, social or environmental well-being of the area to which any of the Council's partner authorities could contribute'
 - Contain a clear and concise statement covering the subject of the petition and should state what action the petitioners wish the Council to take.
 - Include the name, address and signature of any person supporting the petition.
 - Not be vexatious or abusive
 - Not be related to matters excluded from the Scheme. These include any matter relating to individual planning or licensing decisions, for which other established processes exist. See paragraph 13 below
 - Obtain a minimum of 10 valid signatories, including verifiable details that they live, work or study in the Council area.
 - Not be a duplicate or near-duplicate of a similar petition received or submitted under 6 months ago.

6 Petitions may be submitted to the Authority in the following ways:

- On paper
- Electronically, through the Council's own ePetition facility * *This facility is currently being developed and will be available in December 2010*
- Electronically by e-mail

C. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES A PETITION

7 The Council will acknowledge Petitions that meet the criteria shown in Paragraph 5 of this Scheme within **10 working days of receipt**.

8 The acknowledgement will indicate how the Council proposes to handle the issue, the name of the officer dealing with the petition and, where appropriate, outline what it may be possible for the Authority to do in response. If the Council is able to do what the petition asks for the Petition Organiser will be informed and the petition closed. If the petition has enough signatures to trigger a Council debate or a senior officer giving evidence the acknowledgement will confirm this along with the meeting date and time.

Petition	Signatory Threshold	Action Required
Any Petition above a set threshold will be able to be presented at a meeting of full Council	25	Petition Organiser invited to present petition at full Council meeting
Any Petition above a set threshold will trigger a debate of full Council	1500	Debate at Council meeting
Any Petition above a set threshold which will call a senior council officer to give evidence at a public meeting	750	Senior Officer to attend Overview & Scrutiny Committee to give evidence
'Standard' Petition Any other petition requesting action or response by the Council	10	Acknowledge and respond in accordance with scheme

9 It may be inappropriate for the Council to deal with certain petitions during periods when they are subject to restrictions immediately before elections or referendums. In these circumstances the Petition Organiser will be informed of the date when the petition will be considered or when material relating to it will be published on the Council's Website.

10 To ensure the Council understands the level of local support for a Petition, it reserves the right to seek to verify each signature appended to a Petition. This can be significant when establishing whether a Petition has obtained the requisite number of signatures to trigger specific processes.

11 For any Petition relating specifically to a Council Ward or Wards, the relevant Elected Members will be formally notified and asked for comments.

- 12 The petition will be published on the Council website, except in cases where it would be inappropriate, for example if the petition was considered to be potentially libellous or unlawful. Whenever possible all correspondence relating to the petition (with personal details removed) will be published on the website.
- 13 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor) or on a matter where there is already an existing right of appeal such as council tax banding and non-domestic rates other procedures apply. Further information on these procedures and how you can express your views is available here. [insert links]

D. RESPONDING TO PETITIONS

- 14 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-.
- Taking the action requested in the Petition
 - considering the Petition at a Council Meeting
 - Holding an Inquiry
 - Commissioning relevant research
 - Organising a public meeting
 - Mounting a wider public consultation
 - Meeting with the Petition Organiser or representatives of signatories
 - Providing a written response outlining the Council's views on the subject
 - Referring the issue to the Council's Overview & Scrutiny Committee **OR**
 - Referring the issue to the relevant Committee/Cabinet
 - Consulting statutory partners and local service providers
 - Instigating discussions with the voluntary and community sectors
 - Making representations to Commercial or other Interests
- 15 If your petition is about something over which the council has no direct control (for example the local railway or hospital) the Council will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), the Petition Organiser will be advised of the reasons. .
- 16 If your petition is about something that a different council is responsible for the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event the petition organiser will always be notified of the action that has been taken.
- 17 Under normal circumstances, the Council will expect to provide the Petition organiser with a response detailing which of the actions specified above or other initiatives it intends within 28 days of receipt.

E. ~~PRESENTING THE PETITION AT A COUNCIL MEETING – 25 SIGNATURES~~

~~18 If a Petition has 25 or more signatures the Petition Organiser, or someone on his/her behalf, may present the Petition to a meeting of the Full Council. The appointed spokesperson may address Council for a period not exceeding 5 minutes and Members of the Council may, for a period not exceeding 5 minutes, ask questions of the spokesperson. There will be no debate on the petition which will then be dealt with in accordance with the Petitions Scheme.~~

F. COUNCIL DEBATE – 1500 SIGNATURES

- 19 If a Petition has, or acquires 1500 valid signatures the issue will be debated at a full Council meeting (i.e. a Meeting to which all elected members are invited). The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the next available meeting.
- 20 The Deputy Borough Secretary, in consultation with the Chief Executive and/or relevant Director will prepare a report detailing the subject of the petition and what action the council and/or partners is being asked to take.
- 21 At such a meeting, the Petition Organiser or someone nominated on his or her behalf will have the right to speak about the petition, normally for up to five minutes; reasonable advance notice will be provided to ensure that any preparation can be undertaken in time.
- 22 The petition will then be discussed by elected members at the meeting for a maximum of 15 minutes. The Mayor has discretion to extend this time taking account of the degree of public interest in the issue, the level of support given to the Petition and the number of elected members wishing to express their views on the subject.
- 23 The Council accepts that it will not normally be sufficient for such a meeting merely to 'take note' of the Petition and that there should be a decision taken as to what other steps (including but not restricted to the actions specified in Paragraph 4) should also be taken as a response.
- 24 Where the issue is one on which the Council's Executive (Cabinet) is required to make the final decision the Council will decide whether to make recommendations to inform that decision.
- 25 The Petition Organiser will be notified of the decision taken at the Council meeting within 5 working days of the meeting.

F. OFFICER EVIDENCE – 750 SIGNATURES

- 26 Petitions may request that a senior Council Officer be required to appear and give evidence on an issue for which he or she is responsible as part of their job. If such a Petition has, or acquires 750 valid signatures, the relevant senior officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee, though the Council reserves the right to substitute a more appropriate officer for the name referred to in the Petition.

- 27 Officers who may be called to give evidence in this way as a result of a Petition are the Chief Executive and Directors or their nominees. The Overview and Scrutiny Committee may also decide to call the relevant Commissioner to attend the meeting.
- 28 If in the opinion of the Council, an issue raised in a petition seeking to call a Senior Officer to account would be better considered through the attendance of relevant Senior Officers from a Partner Authority, the Council may, at its discretion request that such an individual be invited to give evidence to the Overview and Scrutiny Committee,
- 29 The Petition Organiser will be given reasonable notice of the meeting, and will be able to address the Committee for up to 5 minutes. There is no right to question the officer directly – this would be at the discretion of the Chair. although able to attend, will not normally be able to participate in the meeting. The meeting Chairperson will normally be prepared to consider suggested lines of questioning from the Petition Organiser or Signatories and these would need to be notified to the Deputy Borough Secretary up to three working days before the meeting.
- 30 The Deputy Borough Secretary, in consultation with the Chief Executive and/or relevant Director will prepare a report detailing the subject of the petition. Following the meeting the Committee will prepare a report and/or make recommendations. These will be sent to the Authority Chief Executive and to the Leader of the Council, and a copy sent to the Petition Organiser. Unless the issue raises matters of confidentiality, the Council will normally publish this document on the Council's website.

G. FORMAL RESPONSE

- 31 At the end of the process of considering a Petition, the relevant Director (or nominated officer) will write to the Petition Organiser with a formal response. This communication will normally outline the steps taken by the Council to consider the issue and will refer to the involvement (where applicable) of the Authority's elected members.
- 32 This Formal Response will be despatched within one month of receipt or submission of a Petition if possible but no later than 90 days, and a copy will be published on the Council's website and included in the monthly Significant Decision schedule to Members.

H. REVIEWING THE RESULTS

- 33 If a Petition Organiser is not satisfied with the Council's response to the Petition, he or she may request a Review. Such a request should be made in writing within 28 days of the despatch of the Formal Response to the Petition Organiser and should give a short explanation of the reasons why the Council's response is not considered to be adequate.
- 34 Upon receipt of such a Request the Deputy Borough Secretary will identify a Reviewing Officer from among Senior Officers at the Council. This Officer will be given wide scope to reconsider whether the Authority should, in all the circumstances take additional steps to respond to the Petition. This will normally include reference to the Overview & Scrutiny Committee which will itself consider the

adequacy of the initial response.

- 35 On some occasions, such as where the initial response took the form of the Overview & Scrutiny Committee's taking evidence from a Senior Officer it may be inappropriate for the same Committee to review the issue. The Deputy Borough Secretary will ensure that a suitable alternative process is followed to engage elected members in reviewing the petition.
- 36 At the end of the process of reviewing the Petition the Council's Chief Executive will formally write to the Petition Organiser to inform him or her of the results of the Review. This communication will normally outline the process followed to establish whether the initial response had been adequate and outline any additional steps taken by the Council as part of the Review. It will also refer to the involvement (where applicable) of the Authority's elected members. The letter will also identify the Reviewing Officer who handled the issue and highlight his or her involvement where appropriate. This Review Response will be despatched within 28 days of receipt of the request for Review, and a copy will be published both on the Council website.

I. REPORTING

- 37 The Council will prepare an Annual Summary detailing all petitions submitted under this Scheme, the signatures each attracted, and the Council's response to each. This Report will be presented to the Overview & Scrutiny each year and published on the Council's website. A list of petitions submitted under the Scheme will also be included in the Members' Weekly Bulletin.

	FUNCTION	AUTHORISED OFFICER
59.	Position of litter bins.	Assistant Director (Transport & Planning)
60.	Selection of sites for and planting of street trees within approved estimates.	Assistant Director (Transport & Planning)
	<u>Footpath Closures and Diversions</u>	
	<u>Decisions relating to footpaths and bridleways under Sectionns 257 and 261 of the Town and Country Planning Act 1990 (as amended)</u>	<u>Head of Planning and Strategic Policy</u>
	<u>Footway Crossings</u>	
61.	Construction of footway crossings on rechargeable basis or in accordance with agreed policy.	Assistant Director (Transport & Planning)
	<u>Street Naming and Numbering</u>	
62.	Numbering and re-numbering of premises in streets.	Assistant Director (Transport & Planning)
63.	Allocation of new street names.	Assistant Director (Transport & Planning)
	<u>Permits</u>	
64.	Issue of permits for vehicles to enter the High Street in accordance with the terms of the Traffic Order(s).	Assistant Director (Transport & Planning)
	<u>Temporary Closures</u>	
65.	Making temporary restrictions or prohibitions under Section 14 of the Road Traffic Regulation Act 1984.	Assistant Director (Transport & Planning)
66.	To exercise the Council's powers under the Road Traffic Regulations (Special Events) Act 1994 to restrict or prohibit vehicular and pedestrian movements as necessary to facilitate the holding of a relevant event where the Borough Secretary and Solicitor considers an order under the Town Police Clauses Act 1847 is inappropriate.	Deputy Borough Solicitor in consultation with Assistant Director (Transport & Planning).
	<u>Making temporary restrictions or prohibitions under Section 21 of the Town and Police Clauses Act 1947 to facilitate the holding of a relevant event where the Borough Secretary and Solicitor consider both the Road Traffic Regulations Act 1984 and the Road Traffic (Special Events) Act 1994 to be inappropriate.</u>	<u>Assistant Director (Transport and Planning) or Head of Transport.</u>

APPENDIX 2**DEVELOPMENT CONTROL FUNCTIONS**

37. The following functions are delegated to the Head of Planning & Strategic Policy subject to any conditions set out below:-

1. Determination of all applications for planning permission (except for major developments ++) on sites without planning permission within the constraints set out below:-
 - (a) Approval of applications which comply with existing approved statutory statements of policy and substantially comply with non-statutory policy guidelines.
 - (b) Refusal of applications which do not comply with existing approved statutory and non-statutory statements of policy.

[++ defined as

- 1 Development of 10 or more dwellings (0.5 hectare where no numbers are given)
- 2 Development of buildings of 1,000 square metres floorspace or development on sites of 1 hectare or more
- 3 Working of minerals and waste development (excluding minor ancillary development to an existing use, details pursuant to a permission or variation or deletion of conditions previously imposed.)]

On sites with planning permission decisions on major applications are delegated to the Head of Planning and Strategic Policy if the Planning Committee has considered an application on the site in the 5 year period prior to the submission of the application to be determined and one or more of the following conditions applies:

- 1 The application is to vary a condition, including any application to vary the timescale for implementation of a condition.
- 2 The application is to extend the timescale for an unimplemented planning permission.
- 3 The application is to vary a legal agreement.
- 4 The application is for the discharge of any reserved matters or for the discharge of any condition.
- 5 The application does not vary the proposal by more than
 - A 10 dwellings or 20% of the number of dwellings granted, whichever is the greater, or
 - B 1000 square metres of floorspace,
 - C 0.5 hectares of site area,Compared with the most recent planning permission.

2. Matters of mutual interest referred to the Council by adjoining authorities when the proposed development has no adverse affect on the planning policies operating within the Borough.
3. Authorising the felling, lopping or other works to trees within a Conservation Area or any trees which are subject to a Tree Preservation Order.

Part 4.1 Council Procedure Rules

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Rule No.

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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 Members, the annual meeting will take place within 21 days of the retirement of the outgoing Members. 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 of the Council is not present;
- (ii) elect the Mayor of the Council;
- (iii) elect the Deputy Mayor of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any declarations of interest from Members;
- (vi) receive any announcements from the Mayor and/or Head of the Paid Service;
- (vii) elect the Leader of the Council (in the year in which this is required) ;
- (viii) Receive a report from the leader on appointment of the Deputy Leader and Commissioners and their portfolios~~agree the number of Members to be appointed to the Executive and appoint those Members of the cabinet;~~
- (ix) appoint at least one Overview and Scrutiny Committee, a Standards 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 as set out in Part 3, Table 1 of this Constitution;
- (x) approve a programme of ordinary meetings of the Council for the year; and
- (xi) consider any business set out in the notice convening the meeting.

Only the business specified in the Summons to the Annual meeting shall be transacted except in the case of business required by law to be done at the Annual Meeting

1.2 Appointment of Members to Committees and Outside Bodies

At the annual meeting, the Council will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference of those committees;
- (iii) decide the allocation of seats and deputies (where appropriate) to political groups in accordance with the political balance rules;

- (iv) receive nominations of Members to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.

Casual Vacancies on Committees

- (vi) The Borough Secretary and Solicitor, or in his/her absence the Deputy Borough Secretary, shall appoint to casual vacancies on Committees, Sub Committees, Panels, Outside Bodies and Working Parties as they arise on the nomination of the respective Group Leader and report this decision to Members as a significant decision.

1.3 Election of Committee Chairs

- (i) The Council may appoint, from among the voting members a person to preside at meetings of a Committee (Chair) and a person to preside in the absence of the Chair (Vice-Chair).
- (ii) If any appointment possible under the previous paragraph is not made, the Committee at its first meeting after the annual meeting of the Council shall, from among the voting members, appoint a person to preside in the absence of the Chair.
- (iii) If the Chair and Vice Chair appointed under the previous paragraphs of this rule are absent, a meeting of a committee shall appoint from among its voting members present a person to preside at the meeting.

2. ORDINARY MEETINGS

2.1 Order of Business

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) approve and sign the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Mayor or the Head of Paid Service.
- (v) receive any petitions under Rule 11.
- (vi) answer any questions from Members of the Public under Rule 9.
- (vii) answer any questions on Police Authority functions asked under Rule 10.
- (viii) deal with any business from the last Council meeting;

- (ix) receive reports and recommendations from the Cabinet and the Council's Committees and receive questions and answers on any of those reports (subject to the normal rules of debate) under Rule 12;
- (x) receive reports and recommendations about and receive questions and answers (subject to the normal rules of debate) on the business of joint arrangements and external organisations under Rule 12;
- (xi) deal with any reports from officers of the Council specified in the Council summons.
- (xii) debate the state of the Borough under Rule 16;
- (xiii) consider motions in the order in which they have been received under Rule 13.
- (xiv) 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 and Overview Committee/Sub-Committee for debate.
- (xv) answer any questions from Elected Members asked under Rule 10.
- (xvi) to authorise the sealing of documents as necessary.

Only the business specified in the summons of the meeting shall be transacted at an ordinary meeting of the Council.

2.2 Variations

- (a) No variations shall be made as regards (i) to (iv) above.
- (b) The Mayor may, with the consent of the Council, vary the order of business without discussion.

- 2.3 Any Member may request the Mayor to exercise the above discretion with the consent of the Council and shall have the right to explain for no more than one minute his/her reason for wishing to vary the order of business.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings

Those listed below may request the Deputy Borough Secretary to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor of the Council;
- (iii) The Chief Executive;

- (iv) the Monitoring Officer; and
- (v) any five Members of the Council if they have signed a requisition presented to the Mayor of the Council 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.

Only the business specified in the summons may be transacted at an extraordinary meeting of the Council.

3.2 Business

Any requisition shall specify the business to be transacted at the Extraordinary Meeting. The Agenda shall specify the business to be transacted at the Meeting and no other business shall be transacted at that Meeting.

Where the next meeting of the Council is an Extraordinary Meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972, the Minutes of the last meeting of the Council shall be put to the next ordinary meeting of the Council.

4. DATE, TIME AND PLACE OF MEETINGS

The Mayor, together with the Chief Executive may adjust the dates, place and time of Council meetings.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting of the Council in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her to every Member of the Council 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.

6. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chair of Committees and Sub-Committees. The Mayor's/Chair's decision on any matter relating to the meeting is final.

7. QUORUM

The quorum of a meeting shall be one quarter of the whole number of Members. During any meeting if the Mayor or Chair (as the case might be) 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 Mayor/Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. **DURATION OF MEETING**

- 8.1 If the Council has not completed its business by 10.30 p.m. the Mayor will stand up and move that the remainder of the business shall be dealt with under either Rule 8.2 or Rule 8.3. The motion shall be voted upon without debate.
- 8.2 That the Council resolve to continue past 10.30 p.m. to complete all or part of its business as specified by the Mayor. The business not dealt with under this Rule 8.2 shall be dealt with under Rule 8.3.
- 8.3 That the remaining business be completed in accordance with the following procedure:
- (i) recommendations of Committees/Cabinet shall be put to the meeting. If any are opposed the meeting shall stand adjourned to the following Thursday at 7.00 pm unless otherwise resolved;
 - (ii) any minutes of proceedings of committees not yet received shall be moved, seconded and received forthwith;
 - (iii) any motion of which notice was given under Rule 12 shall be formally moved and seconded and shall stand referred to the Cabinet or appropriate Committee without discussion for determination;
 - (iv) any questions and answers from Members submitted under Rule 10 shall be noted; and
 - (v) other formal business, including authority to seal documents shall be dealt with prior to closure of the meeting.

9. **QUESTIONS BY THE PUBLIC**

9.1 **General**

At an ordinary meeting of the Council a registered elector/resident of the Borough (not being a Member of the Council) may ask the Leader, Commissioners, Chairs or Group Leaders questions relating to any Council Policy. The first five questions received will receive a verbal answer at the meeting, if the elector is present. ~~and the~~ A copy of the written response will ~~also be tabled and~~ sent to the questioner the next working day following the Council meeting.

In the case of more than five questions being received for any one meeting, a written answer will be sent to the questioners on the next working day following the meeting, and the questions ~~and answers~~ will also be tabled at that meeting.

9.2 **Order of Questions**

Questions will be asked in the order notice of them was received

9.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing, facsimile or by electronic mail to the Deputy Borough Secretary no later than 5.00 pm on the fifth working day before the day of the meeting. Each question must give the name and address of the questioner and must name the Member/Chair to whom it is to be put.

9.4 Number of Questions

Members of the public are limited to one question each.

9.5 Scope of Questions

The Deputy Borough Secretary will reject a question if it:

- is not about a matter of policy for which the local authority has a responsibility or which affects the Borough;
- concerns a matter which could be raised as casework or through the Council's complaints procedure or is specific to a particular individual or their property;
- is defamatory, frivolous or offensive;
- criticises or purports to criticise an employee/officer's competence and/or conduct and the employee/officer is identified by name, title or in any other way
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

9.6 Record of Questions

The Deputy Borough Secretary will send a copy of the question to the Member/Chair to whom it is to be put.

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

9.7 Asking the Question at the Meeting

Each question shall be taken as read. If a questioner who has submitted a question is unable to be present a written reply will be sent to the questioner following the meeting. A Member to whom a question has been put may ask another Member to answer on his/her behalf.

9.8 Supplemental Question

A questioner who has put a question in person may also put one supplementary question arising directly out of the original question or reply, without notice to the Member/Chair who has replied to his or her original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 9.5 above. .

9.9 Written Answers

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

9.10 Reference of Question to the Cabinet or a Committee

No discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee/Sub-Committee. Once seconded, such a motion will be voted on without discussion.

NOTE:

That whilst encouraging open and free debate, the Council will not tolerate any person making defamatory remarks or other unfair and unjustified criticisms of Officers of the Council

The Council has agreed that

- (a) The Deputy Borough Secretary be authorised to reject or require amendment, at his/her discretion, to written questions submitted to the Council or to any Committee or Sub-committee of the Council which contain criticisms of Officers of the Council or that, in his/her view, make defamatory remarks about individual officer holders.
- (b) That any person whose question to a meeting is rejected under this provision or is required to amend their question by the Deputy Borough Secretary may appeal that decision to the Council's Strategic Borough Secretary and Solicitor.
- (c) That the Mayor/Chair of any meeting of the Council, its committees and its sub-committees will request any person present to desist from making any defamatory remarks or other unfair or unjustified criticisms of Officers and in the event of a person so instructed by the Mayor/Chair of the meeting failing to desist the Chair will instruct that person to remain silent on the matter under discussion only until such time as they indicate a willingness to comply.
- (d) That where an individual fails to comply with that instruction, the Mayor/Chair may warn the individual that any further interruption will result

in their removal from the meeting whilst the matter in question is under consideration.

- (e) Where, in the reasonable opinion of the Mayor/Chair of any meeting of the Council, its Committees and its Sub-committees, defamatory remarks or other criticisms of Officers have been made by an individual present, the Mayor/Chair may require that individual to apologise for any offence their remarks may have caused before continuing to speak on the matter in question or, if they have been excluded from the meeting under these provisions, will require an apology for any offence their remarks may have caused before allowing re-admission to the meeting.

10. **QUESTIONS BY MEMBERS**

Thames Valley Police Authority

A Member of the Council may ask the person nominated by the Council to answer on behalf of the Thames Valley Police Authority one question on any matter relating to the discharge of the functions of the Thames Valley Police provided that notice in writing of the question has been given to the Deputy Borough Secretary by 5.00 pm on the fifth working day before the Council.

Questions will be tabled at the Council meeting and will be the subject of a written reply which will also be tabled.

10.1 **~~Questions on notice at Full Council~~**

Subject to Rule 10.2, a Member of the Council may ask:

- the Mayor;
- a Commissioner;
- the Chair/Vice Chair of any Committee or Sub-Committee;
- ~~the person nominated by the Council to answer on behalf of the Thames Valley Police Authority;~~

One question on any matter (a) which the Council has Statutory powers or duties or (b) which affects the Borough ~~or (c) on the discharge of the functions of the Thames Valley Police Authority.~~

10.2 **Notice of Questions**

A Member may ~~only~~ ask ~~one~~ question under Rule 10.1 if

Notice in writing of the question has been given to the Deputy Borough Secretary ~~by 5.00 pm on the fifth working day before the Council~~ in the time period between Cabinet meetings.

10.3 **Scope of Questions**

The Deputy Borough Secretary will reject a question if it:

- is not about a matter falling within Rule 10.1 above;
- concerns a matter which could be raised as casework or through the Council's complaints procedure or is specific to a particular individual or their property;
- is defamatory, frivolous or offensive;
- criticises or purports to criticise an employee/officer's competence and/or conduct and the employee/officer is identified by name, title or in any other way
- could be regarded as more than one question (ie: consists of multi parts)
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

10.4 Questions will be replied to by the relevant member within 10 working days of receipt.

~~10.4~~10.5 All Questions that have been submitted and answered since the last Council meeting will ~~shall~~ be tabled at the next Council meeting by the Deputy Borough Secretary. The answers to those questions will also be tabled Questions shall be the subject of a written reply to be tabled at the meeting.

10.5 A Member can submit a supplementary question, in writing, within 10 working days of the receipt of the answer to Council meeting at which he/she asked the original question. The supplementary must relate to the original question and be submitted to the Commissioner/Member in question who will reply, in writing, within ten working days of receipt of the supplementary question.

11. PETITIONS - GENERAL

11.1 Petitions will be handled in accordance with the Council's Petition Scheme which is set out as Article 18 to the Constitution.

11.2 Petitions relating to individual planning and licensing applications and other statutory petitions are not included in the Petitions Scheme and will be dealt with as set out below.

PLANNING MATTERS

11.3 Petitions received in response to individual planning applications shall be dealt with by the Head of Planning and Strategic Policy/Deputy Borough Secretary as detailed in the Council's Scheme of Delegation to Officers or through the Public Participation Scheme. Any petition referring to a general planning matter will be dealt with in accordance with the Petitions Scheme.

LICENSING MATTERS

- 11.4 Petitions received in response to individual licensing applications shall be dealt with by the Licensing Manager/Deputy Borough Secretary and reported to the relevant Sub Committee when the application is considered. The Petition organiser shall be given the opportunity to address the Sub Committee. Any petition referring to a general licensing matter will be dealt with in accordance with the Petitions Scheme.

12 COMPLAINTS ABOUT MEMBERS OR OFFICERS' CONDUCT AND/OR PERFORMANCE

- 12.1 The Council shall not discuss at any meeting (including an extraordinary meeting):-
- (a) any complaint about the conduct of a Member which is or may be the subject of an investigation by the Standards Board for England or the Monitoring Officer unless and until the matter has been adjudicated upon under the provisions of the Local Government Act 2000 and any regulations made thereunder.
 - (b) Any complaint about the conduct or performance of an Officer which is or could be the subject of an investigation under the Council's relevant Disciplinary Policy and Procedure, Grievance Policy and Procedure, Capability Procedure or any other relevant employment procedure unless it is a requirement of any one of those procedures to report the matter to Council.

13. CONSIDERATION OF CABINET AND COMMITTEE RECOMMENDATIONS/ MINUTES

13.1 Recommendations of the Cabinet and Committees

The recommendations ~~and wherever possible the minutes~~ of the Cabinet and ~~every~~ Committees ~~meeting~~ held since the preceding meeting of the Council shall be submitted to the Council for decision. ~~reproduced, circulated and laid before an ordinary meeting of the Council.~~

~~Such minutes shall be presented and dealt with in two parts, the first part extracting and recording the recommendations requiring the Council's approval and the second part recording the action taken under delegated powers of the Cabinet and Committee.~~

Any Member wishing to move an amendment on a recommendation that is before the Council shall give written notice of such intention before 10.00 a.m. on the day before the Council meeting.

13.2 Recommendations as Motions

For the purposes of Rule 16 (Rules of debate) each recommendation to the Council arising out of the Cabinet or a Committee's minutes shall be deemed to be a separate motion.

The Leader of the Council or the Chair of the Committee from which the recommendation has come (or in their absence any other Member) shall move the recommendation which shall be seconded by another Member.

Each recommendation is open to discussion in accordance with Rule 15.

13.3 Withdrawal of Recommendations

The Leader of the Council or the Chair of any Committee, (as the case may be), shall not seek leave to withdraw a recommendation to Council contained in his/her minutes.

13.4 Formal Presentation of Minutes

The Leader of the Council or Chair of each Committee, (as the case may be), or another Member, will formally move the reception of all minutes. Another Member will formally second the minutes. All minutes so moved and seconded shall then be held to be received.

14. MOTIONS ON NOTICE

14.1 Notice

Except for motions which can be moved without notice under Rule 15, written notice of every motion, signed by at least two Members, must be delivered to the Deputy Borough Secretary not later than noon on the ninth working day before the date of the meeting. No Political Group or individual member (ie not part of any Group) may propose more than one motion under this Rule at any one ordinary Council meeting.

Motion to remove the Leader of the Council

A Motion to remove the Leader of the Council must be signed by at least five Members and be submitted in writing to the Deputy Borough Secretary not later than noon on the ninth working day before the date of the meeting. Any such Motion is in addition to Motions submitted under paragraph 14.1 above and must be confined to actions taken by/or the conduct of the Leader in his/her role as Leader. The Motion will be taken as the first item of business after Mayor's Communications and will be debated in accordance with normal debate procedure.

14.2 Wording of Motion

The wording of any Motion under this procedure Rule shall be confined to proposing action to be taken by or on behalf of the Council and shall not include explanatory or other text.

14.3 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 state, in writing, that he/she proposes to move it to a later meeting or withdraw it. Motions shall be formally moved by the Member who gave notice or, on the written request of this Member, by another Member on their behalf.

14.4 Scope of Motions

Motions must be about matters for which the Council has a responsibility or which affect the Borough. Motions that relate to Executive Functions, once determined by the Council, shall be referred to the Cabinet for consideration if action is required.

The Deputy Borough Secretary, in consultation with the Mayor, may reject a Notice of motion if he/she considers that it:

- Is not about a matter for which the Council has a responsibility or which affects the Borough
- Is defamatory, frivolous or offensive
- Subject to Rule 18.2 is substantially the same as a question which has been put to a meeting of the Council in the past six months
- Requires the disclosure of confidential or exempt information, or
- is the subject of a review by the Scrutiny and Overview Committee or a Scrutiny Sub-Committee which has been ongoing for less than six months.

14.5 Challenge to Inclusion

If any Member of the Council considers that any motion that appears on the summons for the Council Meeting should not have been included on the agenda he/she shall give written notice to the Deputy Borough Secretary before 10.00 a.m. on the day of the meeting. Such written notice will indicate the nature of the challenge.

A challenge lodged in accordance with this Rule will be dealt with as follows:

The Member submitting the challenge will speak to his/her challenge confining him/herself to the nature of the challenge for a period not exceeding two minutes.

- The Member who gave notice of the motion will reply to the challenge and will speak for no longer than two minutes.
- No other Member will be entitled to speak.
- The challenge will be put to the vote.
- If the challenge is upheld the motion will be treated as withdrawn.

15. 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 Council minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate Committee/body or individual;
- (e) to appoint a committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to request that the Mayor take action under Rule 23.3 to not hear further a Member or to exclude them from the meeting under Rule 23.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.
- (q) that a matter raised by a petitioner is referred to the Cabinet or appropriate Committee other Authority or Chief Officer.

Motion of No Confidence in the Mayor

A Motion of no Confidence in the Mayor can be moved at any time when a meeting of the Council is in progress. The Motion will be formally moved, seconded and put to the vote without debate.

16. RULES OF DEBATE

16.1 Addressing the Mayor

A Member when speaking shall stand and address the Mayor. If more than one Member stands the Mayor shall indicate the order of speakers. Subject to Rules 16.12 (Points of Order) and 16.13 (Personal Explanation) below, all other Members shall remain seated whilst a Member is speaking.

16.2 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.

16.3 Right to require motion in writing

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

16.4 Seconders' speech

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

16.5 Content and length of speeches

Speeches must be directed to the motion/amendment under discussion or to a personal explanation or point of order.

Except with the consent of the Council, voted upon without discussion, the speech of a Member moving a motion or amendment or responding to the debate on a motion or amendment shall not exceed 5 minutes and the speech of any other Member shall not exceed 3 minutes.

Where in the opinion of the Mayor it is conducive to the effective conduct of Council business and with the consent of the Council, voted upon without discussion, the Council may agree to:-

- (a) further limit:
 - (i) the duration of speeches by any Member(s) on any matter under consideration;
 - (ii) the total duration of debate on any matter under consideration;
 - (iii) for the remainder of the meeting the duration of speeches by any Member(s) and the total duration of debate on any matters remaining to be considered.
- (b) allow a Member moving a motion or amendment to speak for a limited period exceeding 5 minutes.

16.6 When a Member may speak again

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

- a. to speak once on an amendment moved by another Member;
- b. to move a further amendment if the motion has been amended since he/she last spoke;
- c. if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d. in exercise of a right of reply;
- e. on a point of order; and
- f. by way of personal explanation.

16.7 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 the Cabinet or an appropriate Committee/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 or introduce a new proposal on the same subject matter.
- (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 but it will not be permitted to seek to re-instate part(s) of the motion which have already been rejected with words to the same or similar effect. No further amendments can be moved once the seconder of the original motion has commenced his/her speech (if reserved) or the mover of the original motion has commenced his/her wind up speech.
- (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. If an amendment to refer a matter under (i) above is carried the 'substantive motion' requires no further vote.

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

16.8 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.

16.9 Withdrawal of motion

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

16.10 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 Leader/Chair will have the penultimate right of reply to the Motion.
- (d) The mover of the amendment has no right of reply to the debate on his or her amendment.

16.11 Closure motions

- (a) A Member who has not spoken in the debate, may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.

- (b) If a motion to proceed to next business is seconded and the Mayor 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 Council proceeds to next business without a vote on the original motion/amendment.
- (c) If a motion that the question be now put is seconded and the Mayor 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 Mayor 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. If the procedural motion is carried the Mayor will determine the date and time when the meeting/debate shall continue.

16.12 Points of order

A Member may raise a point of order at any time. The Mayor 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.

16.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate.

17. STATE OF THE BOROUGH DEBATE

17.1 Calling of debate

The Leader will call a State of the Borough debate annually on a date and in a form to be agreed with the Mayor.

17.2 Form of debate

The Leader will decide the form of the debate with the aim of enabling wide public involvement and publicity. This may include holding workshops and other events prior to or during the State of Borough debate.

17.3 Chairing of debate

The debate will be chaired by the Mayor.

17.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

18. PREVIOUS DECISIONS AND MOTIONS – THE SIX MONTH RULE

18.1 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 one third of all Members of the Council.

18.2 Motion similar to one previously dealt with

A motion or amendment in similar terms to one that has been voted upon 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 one third of all Members of the Council. This includes amendments that have been voted upon during the meeting in question. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

19. VOTING

19.1 Majority

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

19.2 Mayor's casting vote

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

19.3 Show of hands

Unless a recorded vote is requested under Rule 19.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

19.4 Recorded vote

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

19.5 Right to require individual vote to be recorded

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

19.6 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.

20. MINUTES

20.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next ordinary meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only matter in relation to the minutes that can be discussed is their accuracy. Members should not vote on the accuracy of the minutes if they were not present at the meeting in question.

20.2 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.

20.3 Form of minutes

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

21. 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.

22. EXCLUSION OF PUBLIC

22.1 General

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 23 (Disturbance by Public).

22.2 Motions affecting Council employees

Before any discussion on the appointment, promotion, suspension, dismissal, salary, conditions of service, or the conduct of a Council employee, the Mayor shall move and the Council shall resolve without discussion, a motion to exclude the Press and Public. During consideration of the matter the employee concerned if present shall immediately leave the meeting until the matter under consideration is settled.

23. MEMBERS' CONDUCT

23.1 Standing to speak

When a Member speaks at a Council meeting they must stand and address the meeting through 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 or a point of personal explanation.

23.2 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.

23.3 Member not to be heard further

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

23.4 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Mayor 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.

23.5 General disturbance

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

24. DISTURBANCE BY PUBLIC

24.1 Removal of member of the public

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

24.2 Clearance of part of meeting room

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

25. PHOTOGRAPHS OR RECORDINGS OF PROCEEDINGS

25.1 The prior consent of the Mayor, in consultation with the Borough Secretary and Solicitor and Group Leaders, shall be obtained before any photograph, recording or oral report of any proceedings of the Council is taken. Any person attending the meeting may take written notes. The prior consent of the Mayor shall also be obtained to play any music at a Council meeting.

25.2 The admission of any person who is in possession of equipment or apparatus designed to make pictorial or sound records may be refused by the Mayor unless consent has been given under Rule 25.1.

26. SMOKING, ROBES, FOOD & DRINK, ELECTRONIC BUSINESS DEVICES

26.1 Smoking shall not be allowed at any meeting of the Council.

26.2 Council Robes may be worn by Members at the Annual Meeting of the Council and at other special civic occasions as the Mayor may request.

26.3 The consumption of food and drink (other than water, coffee, tea or soft drinks) will not be allowed at any Meeting of the Council.

26.4 Mobile telephones, with the exception of the Council's emergency phone, shall not be permitted at any meeting of the Council.

- 26.5 Electronic business devices, including laptop computers may be used in any meeting of the Council.

27. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

27.1 Suspension

Any part of these Council Rules of Procedure except Rule 19.6 and 20.2 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 may be for the consideration of a particular item of business or for the duration of that meeting.

27.2 Amendment

Other than at the Annual Meeting of the Council, 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.

28. APPOINTMENT OF DEPUTIES

The Council shall at its Annual meeting agree to the appointment by the Employment and Appeals Committee to standing deputies on any of its Sub-Committees in accordance with the political balance rules and a standing Parish Council deputy to the Standards Committee.

29. COUNCIL-IN-COMMITTEE

The Mayor may at any time require the summoning of a meeting of Members of the Council to sit as a Council-in-Committee or Committee-of-the Whole-Council. (N.B. Such a meeting has the status of a Committee only, and its proceedings require confirmation by the Council at a meeting duly summoned and held in accordance with the statutory provisions unless the Council has previously delegated powers to the meeting under the provisions of the Local Government Act 1972).

30. ATTENDANCE OF NON-MEMBERS AT CABINET, COMMITTEES AND SUB-COMMITTEES

- 30.1 Subject to Rule 30.2 and 30.3 below, any Member can attend meetings of the Cabinet, Committees and Sub-Committees as an observer and may speak if given permission by the Chair (which should be previously notified), such permission not to be unreasonably withheld. If permission is withheld, the Chair shall state the reason for this and this reason will be recorded in the minutes of the meeting. The consent of the Standards Committee (majority resolution) is required for a Member to attend as an observer in Part II of that Committee. The right to speak does not extend to the Standards Local Determination Sub Committee and Licensing Sub Committee when it is dealing with applications under the Licensing Act 2003 and in Planning Committee is confined to individuals raising material planning issues

pertinent to the application being determined by the Committee (see Part 5, 5.2, 9.2 Public Participation Scheme).

- 30.2 A Member shall have the right to attend and speak at a meeting of the Cabinet /Committee/Panel or Working Party to which a motion proposed by him/her has been referred.
- 30.3 A Member shall have the right to attend and speak at the Cabinet, Committee or Sub-Committee on a matter which directly and specifically affects his/her Ward. (The right to speak does not extend to the Licensing Sub Committee when dealing with Licensing applications under the Licensing Act 2003)
- 30.4 The Cabinet and any Committee or Sub-Committee may allow representatives of employees to attend any of its meetings as observers. The Chair shall have discretion to invite employee representatives to speak.
- 30.5 The Cabinet and any Committee or Sub-Committee shall have discretion to specify a maximum number of employee representatives who may attend a meeting. The representatives within that maximum number shall be determined by the employees concerned or their representatives.

31. PANELS AND WORKING PARTIES

The Council may appoint such Panels and/or Working Parties as it wishes to deal with specific matters. Such bodies are non decision making, not subject to the Local Government Access to Information Act 1985 and should be politically proportionate. Subject to rule 30.2 above only those Members appointed shall be entitled to attend meetings of the Panel/Working Party. This Procedure Rule is not applicable to Overview and Scrutiny Panels as the arrangements for these are set out in Part 4 – Overview and Scrutiny Procedure Rules.

32. APPLICATION TO CABINET COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to ordinary meetings of the full Council. All the Council Procedure Rules other than those determining business to be transacted apply to Extraordinary Council Meetings. Only Rules 11, 24, 25, 30 and 31 apply to meetings of the Cabinet. Only Rules 4-8, 10-11, 15-16, 18-20, 21-26 (but not Rule 23.1), 30 and 31 apply to meetings of Committees and Sub-Committees.

PROCEDURE FOR DEALING WITH ALL MOTIONS/RECOMMENDATIONS

Motions

- Mover of motion to speak and move his/her motion
- Secunder to speak (or can reserve the right to speak later)
- Any other Member who wishes to speak in the debate

A member may move an amendment to the motion. If it is agreed, it then becomes the substantive motion before the Council

Amendments

- Mover of amendment to speak.
- Secunder of amendment to speak (or reserve the right).
- Any other member (except mover of original motion).
- Secunder of amendment (if not spoken already).
- Mover of the original motion.
- Go to the vote on the amendment.

If the amendment is agreed it then becomes the substantive motion before the Council

(Any further amendment(s) on the same item to be moved and dealt with as above).

- Further debate on the original motion (amended as appropriate).
- Secunder to speak if reserved the right.
- Leader or Chair penultimate speech (if not mover of motion).
- Mover of the motion to wind up the debate.
- Go to the vote.

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Part 4.4 Executive Procedure Rules

1. HOW THE EXECUTIVE OPERATES

1.1 Who may make Executive decisions?

The Executive will consist of the Leader elected by the Council, the Deputy Leader between one and eight other Members appointed by the ~~Leader~~Council. The Executive is responsible for the discharge of executive functions as set out in this Constitution but, within the terms of the Constitution, the Leader may further provide for executive functions to be discharged by:

- (i) the executive as a whole (meeting as the Cabinet);
- (ii) The name of the Member nominated by him/her as Deputy Leader for appointment by the ~~Cabinet~~Council;
- (iii) a committee of the executive;
- (iv) an officer;
- (v) joint arrangements approved by the Council; or
- (vi) another local authority with the approval of the Council.

1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council the following information about executive functions in relation to the coming year:

- (i) the names, addresses and wards of the Members ~~appointed~~ nominated by him/her ~~for appointment~~ to the executive ~~by the Council~~;
- (ii) the terms of reference and Constitution of the Cabinet;
- (iii) the terms of reference and constitution of such cabinet committees as the Leader appoints and the names of the Commissioners appointed to them;
- (iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive Members appointed to any joint committee for the coming year.

1.3 Sub-delegation of executive functions

- (i) Where the Cabinet or a Committee of the Cabinet is responsible for an executive function, it may delegate further to joint arrangements or an officer.
- (ii) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

The Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

1.5 Conflicts of Interest

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

1.6 Meetings of the Executive

The Cabinet will meet at least 10 times per year at times to be agreed by the Leader. The executive shall meet at the Council's main offices or another location to be agreed by the Leader.

1.7 Access to Meetings of the Executive

Meetings of the Cabinet will be open to the public for consideration of key decisions, except where confidential or exempt information is being discussed.

The Cabinet may decide whether meetings relating to matters which are not key decisions will be held in public.

1.8 Quorum

The quorum for the Cabinet shall be three.

1.9 How decisions are taken

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

2. HOW EXECUTIVE MEETINGS ARE CONDUCTED

2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader or a person appointed to do so by those present shall preside.

2.2 Who may attend?

Any Member of the Council may attend any public meeting of the Cabinet and may speak at the discretion of the Chair (previously notified). Members of the public may attend any Cabinet meeting held in public except when confidential or exempt information is being discussed.

2.3 Order of business

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by Overview and Scrutiny Committee or one of its Panels or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Committee or one of its Panels; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not open to the public in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

2.4 Consultation

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

2.5 Who can put items on the executive agenda?

- (i) The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The Deputy Borough Secretary will comply with the Leader's requests in this respect.
- (ii) Any Commissioner may require the Deputy Borough Secretary to make sure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the Deputy Borough Secretary will comply.
- (iii) The Deputy Borough Secretary will make sure that an item is placed on the agenda of the next available meeting of the executive where the Overview and Scrutiny Committee or one of its Panels or the full Council have resolved that an item be considered by the executive.
- (iv) Any Member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the Member who asked for the item to be considered. This individual will be invited to attend the meeting for the consideration of that item, and to speak but not vote on that item.
- (iv) The Monitoring Officer and/or the Director of Resources may include an item for consideration on the agenda of an executive meeting and may require the Deputy Borough Secretary to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Director of Resources and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

Part 5.2 Planning Code of Conduct for Members and Officers

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1. INTRODUCTION

- 1.1 This Code has been written to advise all those concerned with planning matters of Slough Borough Council's standards in its operation of the town and country planning system within the Borough. The Code applies to all Members and Officers involved in operating the planning system.
- 1.2 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private interest of individuals, landowners, and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 1.3 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that the Council should make planning decisions affecting these interests openly, impartially, with sound judgement, and for justifiable reasons. The process should leave no grounds for suggesting with any justification, that a decision has been partial, biased, or not well-founded.
- 1.4 Thus the successful operation of the planning system in Slough depends upon the Council always acting in a way which is clearly seen to be fair and impartial. This requires a shared understanding of the respective roles of Members and Officers and trust between these parties. The following quotation from the Local Government Association serves to illustrate the point:-

"The role of an elected member on a planning committee involves a balance between representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, as the Nolan Committee in its recent report acknowledges, can give rise to great tensions".

(Source: Probity in Planning 1997).

- 1.5 The aim of this Code of Practice is to ensure that the Council operates an open and fair system. Failure to follow this Code of Practice, without good reason, could be taken into account during investigations by the Standards Board for England or the Council's Standards Committee and/or the Local Government Ombudsman.
- 1.6 Members and Officers are requested to read this Code thoroughly and 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 Borough Secretary and Solicitor or the Head of Planning and Strategic Policy. They will be pleased to help you.

2. GENERAL PRINCIPLES

- 2.1 Members are reminded that they are required to comply with the statutory provisions on the disclosure of interests (personal and financial), the Local Code of Conduct for Members, this Council's Rules (formerly known as Standing Orders) and its Scheme of Delegation.
- 2.2 Officers involved in the processing and determination of planning matters must also act in accordance with the Council's Rules, Scheme of Delegation and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct or any other relevant professional or adopted Council Employee Code of Conduct.
- 2.3 Whilst this Planning Code deals primarily with planning applications, its principles apply with equal vigour to consideration of ~~Structure Plans, Local Plans, Development Plan Documents~~, Development Briefs, enforcement cases and all 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 (Appendix "A"). This is considered further in paragraph 10 below.
- 2.4 This Local Code is supplemental to the provisions referred to above and provides further specific advice and guidance for Members and Officers involved in planning matters. A key principle is that Members should represent their constituents as a body and vote in the interests of the Borough as a whole. Members should take account of all views expressed, they should not be biased or appear to be partial towards any person, company, group or locality.

3. GENERAL ROLES OF MEMBERS AND OFFICERS

- 3.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, whilst Officers are responsible to the Council as a whole. A successful relationship between Members and Officers can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.
- 3.2 Members set the Council's planning policy and determine planning applications, enforcement issues and other planning matters within the context of that planning policy. When Members come to make a decision on a planning matter, they must:-
 - (a) Act fairly and openly
 - (b) Approach each application with an open mind.
 - (c) Carefully weigh up all relevant issues.

- (d) Determine each application on its own merits.
 - (e) Avoid contacts with interested parties which might be taken to indicate that they were unduly influenced by one party or another.
 - (f) Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.
- 3.3 The Officers' function is to advise and assist Members in matters of planning policy and in their determination of planning applications, enforcement issues and any other planning matters by:-
- (a) Providing impartial and professional advice.
 - (b) Making sure that all the information necessary for the decision to be made is given.
 - (c) Providing a clear and accurate analysis of the issues.
 - (d) Setting planning applications, enforcement issues and other planning matters against the broader Development Plan policies and all other material considerations.
 - (e) Giving a clear recommendation.
 - (f) Carrying out the decisions of Members in Committee.
- 3.4 Members who also serve on Parish Councils may need to clarify their separate roles in each Council regarding Slough Borough Council planning policies. The public and other interested parties should be clear at all times when the Members are acting as a Parish Councillor and when they are acting in their role as a Borough Councillor.

4. DECLARATIONS OF INTEREST

- 4.1 Members should observe strictly the guidance on the disclosure of personal and other interests as set out in the Local Code of Conduct for Members adopted by the Council in April, 2002. A Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
- 4.2 Members who have substantial property interests, or other interests which would prevent them from voting on a regular basis should avoid serving on the Planning Committee.
- 4.3 Gifts and hospitality give rise to particular problems in respect of the credibility of the planning process and the acceptance of gifts or hospitality by Members or Officers can be a very serious criminal offence. Members should have particular regard to the provisions of the Council's Local Code of Conduct for Members. In particular, they must immediately report to the Monitoring Officer

any offer of gifts or hospitality and they should avoid any behaviour which might be taken as indicating that they are open to such offers. Officers should strictly comply with the Council's adopted Employee Code of Conduct.

- 4.4 Officers must seek permission from the appropriate senior officer for any private work or interest which they wish to take up as required by the Council's Rules.

5. PRE-APPLICATION DISCUSSIONS

- 5.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties, and is regarded as best practice. encouraged by the Audit Commission and the National Planning Forum. Fees may be charged for pre-application advice – applicable fees can be viewed on the Council's website at www.slough.gov.uk. Discussions can take place for a variety of reasons, for example: to establish whether an application can be improved in design, to overcome planning objections, or to meet relevant neighbour concerns.
- 5.2 It should always be made clear at the outset that pre-application discussions will not bind the Council to making a particular decision and that any views expressed are provisional, until all relevant information is submitted and consultations on it have taken place.
- 5.3 Planning Officers will ensure that their advice is not partial, nor seen to be. This is because a consequent report could be seen as advocacy for a particular point of view. A written attendance note should be made of pre-application discussions, and important telephone conversations and placed on the relevant planning file. Ward Members will be supplied with a copy of formal pre-application advice given by planning officers on prospective major planning applications except where there is a justified request for confidentiality by the potential applicant.
- 5.4 To ensure professional advice and maintain impartiality it is highly desirable that Members do not take part in pre-application discussions other than in cases of minor development. If there are other occasions when Members are involved they must be accompanied and advised by professional officers of the Council including a Senior Planning Officer. The involvement of Members in such discussions will be noted by Officers in a written attendance note which must be placed on the relevant planning file.
- 5.5 For the avoidance of doubt, Members are prohibited from negotiating with the applicant.

6. ATTENDANCE AT PUBLIC MEETINGS

- 6.1 Officers who are wholly or partly involved in the processing or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications, unless their attendance has been agreed by the Head of **Development**

~~Control~~ Planning and Strategic Policy or the Development Control Manager.

To do so could lead to allegations of prejudice or bias to a particular point of view. If such attendance has been authorised, Officers should only provide information and give no view on the merits or otherwise of the proposal.

- 6.2 When attending public meetings, Members of the Planning Committee ~~must~~ may be accompanied by a Senior Planning Officer and they should take great care to maintain their impartial role as a Councillor, listen to all the points of view expressed by the speakers and the public and not state a conclusive decision on any pre-application proposals and submitted planning applications.

7. RESPONSE TO LOBBYING OF MEMBERS

- 7.1 It is a fact of life that when Members undertake their ward roles they 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 Members are lobbied they need to exercise great care to maintain the Council's reputation and the Member's own integrity and the public perception of the planning process.

- 7.2 If they are approached, Members should use all reasonable endeavours to refer the person to another Member who is not a Member of the Planning Committee. If, however, the lobbying persists then Members should expressly state that whilst they can listen to what is said, they cannot give any commitment (for or against) in respect of the application/proposal for to do so without all relevant information, evidence and views would be unfair, prejudicial and may amount to maladministration.
- 7.3 If a Member considers that an ordinary member of the public believes that s/he held a conclusive view in respect of an application or other planning matter before the relevant meeting then s/he should advise the Monitoring Officer in writing prior to the meeting, and not take part in the debate or vote on the issue.
- 7.4 If approached by a constituent, who is not professionally represented, a Member should only give advice on planning procedure, rules and policy. If approached by a constituent who is represented, or a non-constituent, or a professional agent, a Member should refer the person making the approach to either the ~~Head of~~ Development Control Manager or the Planning Case Officer.
- 7.5 Other than for formal site visits, Members should not enter premises or sites which are, or are likely to be, the subject of a planning application or forms part of a Development Local Plan proposal.
- 7.6 Members should not organise support, opposition or put undue pressure on other Councillors or Officers for a particular decision/recommendation.

- 7.7 A decision in respect of any planning matter or application can only be taken at the Planning Committee when all relevant information is to hand and has been carefully considered. Individual Members should reach their own conclusions at the meeting rather than be influenced by others. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Members should vote.

8. THE PARTY WHIP

- 8.1 Members cannot accept an instruction from anyone to determine an application in a particular manner, but must determine the issue on its merits. Accordingly, whilst they may accord appropriate weight to the views of other Members, whether expressed in the Committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor which they are not prepared to state in open Committee. Therefore, it is inappropriate for any Party Group to instruct its Members to vote in a particular manner on an application or to apply or threaten to apply any sanction to any Member who votes contrary to the Group's collective views.
- 8.2 Where such a "Whip" has been applied, Members should declare it in exactly the same manner as they would declare any other attempt at lobbying.

9. PUBLIC PARTICIPATION SCHEME

- 9.1 Applications for planning permission are determined by either Officers acting under the Council's Scheme of Delegation or by Members who form the Planning Committee. Each application is subject to a public consultation/notification exercise which includes local residents and other bodies inviting comment in writing on the application before it is determined.
- 9.2 ~~However the Council is committed to extending public involvement in the planning and development process by giving~~ the following an opportunity to address in certain circumstances Members of the Planning Committee at the meeting before Members take their decision:-
- (a) Objectors
 - (b) Parish Council representatives
 - (c) The applicant (or his agent) and supporters
 - (d) Ward Councillors or other appropriate elected representatives raising material planning issues on behalf of those they represent.
- 9.3 The Public Participation Scheme will only apply to applications which are to be determined by the Planning Committee. They do not apply to any matter where the Planning Committee is considering enforcement of any kind. Applications to be determined under Officer Delegated Authority are not subject to the requirements of this code.
- 9.4 The Public Participation Scheme will operate in accordance with the explanatory leaflet attached as **Appendix B** to this Code of Conduct.

10. REPORTS BY OFFICERS

10.1 Reports to the Planning Committee on applications and other planning matters must be clear and accurate and comprise:-

- (a) a ~~full~~ description of the site.
- (b) any related planning history
- (c) full details of any relevant policies of the Development Plan and other material considerations.
- (d) a technical appraisal of which clearly justifies the written recommendation.
- (e) a written recommendation setting out clear and unambiguous reasons for:
 - (i) granting planning permission (with conditions to be attached); or
 - (ii) refusal.

Officer reports should be proportionate to the planning issues. It will be acceptable for reports to summarise analysis when there is compliance with policies and concentrate analysis on issues where there is conflict or some variance with policies. The content of reports is the responsibility of the Head of Planning and Strategic Policy.

10.2 Officers may supply written information at the Planning Committee to take account of additional relevant matters that arise between the publication of the agenda and the date of the meeting. Plans of the proposed development will be available for inspection at Committee. The Chair, at the request of any Member of the Committee, shall adjourn the meeting for a reasonable period of time to enable the Members to have an opportunity of reading any information which has been tabled by the officers 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 officers present, may exercise his/her discretion to consider new information if it is appropriate to do so.

10.4 ~~Planning Officers The Head of Development Control and/or the relevant Planning Case Officer having conduct of the case,~~ must be available at the Planning Committee to answer any questions or clarify any queries raised by Members.

11. THE DECISION MAKING PROCESS

- 11.1 In determining applications submitted pursuant to the Town and Country Planning Act 1990, and other planning or planning related legislation, the Council will follow the Guidelines adopted as part of this Planning Code. These adopted Guidelines will be subject to changes from time to time to reflect the latest government guidance and case law (Appendix "A").
- 11.2 Members should not take part or vote on any application or matter if they have not read the committee report and have not been present throughout the consideration of such application or matter unless the item has been deferred from a previous meeting after being partially considered.
- 11.3 In discussing and determining a planning application enforcement issue or other planning matter, Members should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits. The Planning Committee's decisions should be properly minuted.
- 11.4 From time to time Members of the Planning Committee will disagree with the professional advice given by the Head of Planning and Strategic Policy or his representative. As indicated in paragraph 1.2 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 be able to advise if the facts simply cannot support the conclusion which the Members have drawn and the Committee is in danger of acting unreasonably.
- 11.5 Where Councillors wish to add or amend conditions or reasons for 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 Head of Planning and Strategic Policy. Where an appeal arises against such a decision, Officers will give support to the relevant Committee Members in preparing evidence for the appeal, but it will be for Members of the Planning Committee to appear at any appeal inquiry/hearing and give evidence to justify the reasons for the Committee's decision.
- 11.6 If the officer report ~~of the Planning Case Officer~~ recommends approval of a departure from the Development Plan, the ~~full~~ justification for this recommended departure should be included in the report.

12. SITE VISITS

- 12.1 A site visit is private and its purpose is for Members to gain knowledge of the development proposal and to observe the characteristics of the site and its relationship to its surroundings. A site visit may be called by
 - Any two Members of the Planning Committee;
 - A Ward member, if the application has been referred to Committee by the Head of Planning and Strategic Policy on the request of the Ward Member.

Requests for site visits will be made directly to Committee and Members Services, with an outline of the main reasons as to why a site visit should take place and must be submitted ten working days before the meeting at which the application is to be considered.

All Members of the Planning Committee will be invited to the site visit and all ward members will also be advised of the visit and invited to attend.

Site visits are:-

- (a) fact finding exercises
- (b) not part of the formal consideration of the application and therefore public rights of attendance do not apply.
- (c) to enable Officers to point out relevant features
- (d) to enable questions to be asked on site for clarification. However, discussion on the application will only take place at the subsequent Committee as all relevant parties may not be in attendance on site.

- 12.2 At the site visit Members shall be accompanied by a Planning Officer the Head of Development Control and/or the Planning Case Officer who will record what takes place at the inspection. Members may ask questions of the Officers and the applicant/agent. However, representations on the merits of the application will not be heard.
- 12.3 The site visit shall take place during normal working hours as far as is practicable unless there are reasons which dictate otherwise.
- 12.4 No decision is to be made at the site visit. It is essential that Member and Officers ensure that those attending, or making comments, are not led to believe that a decision has been taken on the visit, or that conclusive views have been reached.
- 12.5 After the inspection the Head of Development Control or the Planning Case Officer who attended the site visit will prepare notes for the Planning Committee on the planning issues and any relevant information obtained by Members and a recommendation on how the application should be determined.
- 12.6 The Officer attending the site visit Head of Development Control will ensure that all correspondence in relation to site visits clearly identifies the purpose of the site inspection, the format and conduct of the inspection and the appropriate procedure for the applicants, agent and interested parties to address elected Members.

13. DEVELOPMENT PROPOSALS OF MEMBERS, OFFICERS AND THE COUNCIL

- 13.1 Members and Officers should never act as agents for individuals (including a company, group or body) pursuing an application enforcement issue or other planning matter. If Members or Officers 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 Member of Officers 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 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. Applications for development by the Council are considered by the Planning Committee for decision or in accordance with the Council's Scheme of Delegation. This scheme gives clear guidelines on when applications will be determined under delegated powers. Provided these are met, there should be no grounds for allegations of unfairness.

14. PLANNING AGREEMENTS

- 14.1 ~~When Applications~~ applications which propose or require planning obligations by agreement ~~are referred to will be determined by~~ the Planning Committee ~~the~~. The heads of agreement will be included in the Officers' written report, and a copy of the agreement, when made, will be publicly available, provided (following the advice of a Council Solicitor) it is not considered to prejudice clearly established interests of commercial confidentiality.

15. TRAINING

- 15.1 No Member should be appointed to the Planning Committee without having agreed to participate in educational training programmes directed towards the role of Members in making planning decisions.
- 15.2 The Council will, from time to time, consider and review the form of education and training that is most appropriate.
- 15.3 Initially, there will be a series of short training sessions by the Council's Solicitors and Planning Officers on the following topics:-
- The Role of the Government in Planning
 - The Development Plan and Material Considerations
 - Section 106 Planning Obligations/Planning Conditions
 - Enforcement of Planning Control
 - Certificates of Lawful Use
 - Planning Procedures
- 15.4 This training will be open to all Members and brief handouts will be provided where appropriate. The Council welcomes suggestions from Members on any other subjects which they would like to see covered and any other training procedures that they would wish to adopt.

16. COMPLAINTS & RECORD KEEPING

- 16.1 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Members.
- 16.2 The same principles of good record keeping will be observed in relation to all enforcement and Development Plan matters. Monitoring of record keeping ~~may~~will be undertaken ~~regularly~~ by the appropriate managers in the Law and Corporate Governance Department.

(To Planning Code of Conduct)

COUNCIL GUIDELINES FOR DETERMINING PLANNING APPLICATIONS

1. APPLICATIONS UNDER THE TOWN & COUNTRY PLANNING ACT 1990 (TCPA)

- (i) The emphasis in determining applications is upon a plan led system. Section 54A of the Town and Country Planning Act 1990 requires all planning applications to be determined by reference to the Development Plan ~~(i.e. the Structure Plan and the adopted Slough Local Plan)~~ if material to the application, and any other material considerations. If the Development Plan is material to the application then the statutory position is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- (ii) The term “other material considerations” has a wide connotation as expressed by the following judicial comment:-

“.....I find it impossible, however, to accept the view that such considerations are limited to matters relating to amenity.....it seems to me that any consideration which relates to the use and development of land is capable of being a planning consideration”.
- (iii) Material considerations include national planning guidance in the form of Government Circulars, Planning Policy ~~Statements~~ Guidance Notes, Non-Statutory Development Control Guidelines and case law. A ministerial statement may be a material consideration.
- (iv) Examples of material considerations are:-
 - (a) appearance and character of development;
 - (b) traffic generation, highway safety and parking;
 - (c) Overshadowing, overlooking and loss of privacy;
 - (d) noise, disturbance or other loss of amenities;
 - (e) layout and density of buildings;
 - (f) relevant planning policies.
- (v) Matters which are not material considerations include:-
 - (a) boundary disputes, covenants or other property rights;
 - (b) personal remarks (e.g. the applicant's motives);
 - (c) reduction in property values;
 - (d) loss of private view over the land.
- (vi) The personal circumstances of an applicant for planning permission are not generally a material consideration because they do not relate to the character or use of the land. However, in exceptional circumstances they may outweigh other material planning considerations. Where this is the case, specific and valid reasons must be given to justify the exception.

- (vii) What constitutes a material consideration is a matter of law. The weight to be attached to the consideration is a matter of planning judgement for the decision-maker having regard to the planning evidence. In attaching weight to any offers of community benefit accompanying any planning application, Members must be mindful of the Advice in Circular [05/2005](#) 1/97 Planning Obligations (Section 106 Agreements) as to the legality and materiality of such offers.
- (viii) It is essential to consider thoroughly any advice given by a statutory consultee or relevant Government Department, including views expressed by English Heritage or the Environment Agency.
- (ix) The view of local residents are relevant when determining a planning application, but it must be recognised that such opposition cannot be a reason in itself for refusing or granting planning permission unless founded on valid planning reasons, which are supported by substantial evidence (Circular [03/2009](#) 9/93 – ~~Annex 3, Paragraph 15~~).
- (x) Account should be taken of previous Council decisions, appeal decisions in relation to the site, or other related appeal decisions.
- (xi) It is not permissible to prevent, inhibit or delay development which could reasonably be permitted.
- (xii) Planning Conditions should only be imposed for a planning purpose and not for any ulterior one. They must fairly and reasonably relate to the development. Thus it is essential to avoid conditions which are unnecessary, unreasonable, unenforceable, imprecise or irrelevant.

2. **APPLICATIONS UNDER THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (PLBCA)**

- (i) It is now established that the determination of planning applications and applications for PLBCA are two separate statutory duties. The provisions of the TCPA do not override those of the PLBCA.
- (ii) The Development Plan contains policies that deal with development in Conservation Areas and applications for Listed Building Consent under the PLBCA to enable the local authority to consider the desirability of preserving the building or its setting or any feature of special historic interest or the Conservation Area.
- (iii) Members will also have regard to the replies of statutory consultees, e.g. English Heritage and amenity societies.
- (iv) Planning Policy ~~Statement~~ [Guidance Note 15](#) [Planning and the Historic Environment](#) will be relied upon.
- (v) Any other material consideration, e.g. appeals decisions and relevant case law.

SLOUGH BOROUGH COUNCIL

What happens about my Objection to a Planning Application?

This information leaflet explains how your objection is dealt with and how the application is determined. Your views on planning applications are always considered when planning decisions are made

1. I have objected. What happens next?

1.1 Planning officers will consider whether:

- the application should be recommended for approval as it stands
- it should be amended to resolve your objection, or
- it should be refused

1.2 Your written objection ~~may be made by email or by letter. will be acknowledged by letter~~Your written objection will not normally be replied to or acknowledged and you will be asked to If the application is to be referred to the Planning Committee you will be notified when the Agenda is prepared to give you the opportunity to register if you wish to speak on your objection in the event that the application is to be determined by the Planning Committee. ~~If you register, you will be notified of the time and date of the meeting.~~ The deadline for receipt of requests to speak at a Planning Committee shall be no later than three clear working days prior to the day of the meeting. If exceptionally an application is taken to Planning Committee as a late urgent item you will be informed. If there is not three working days for the submission of your request discretion may be exercised to relax the procedure.

1.3 If you have submitted a petition in response to a planning application your petition will be noted for the purposes of the Public Participation Scheme and, in the event that the application is to be determined by the Planning Committee, the petition organiser/main contact will be advised of their right to speak at the meeting.

[Note: The submission of a petition does not mean that the planning application will automatically be referred to the Planning Committee.]

2. Who Makes the Decision?

Most planning applications are dealt with at officer level under a Scheme of Delegation. In this circumstance the application will not be reported to the Planning committee for determination. In certain circumstances, as set out in the Scheme of Delegation, the application will be determined by the Planning Committee. Any comments received will be summarised in a report when the application is presented.

3. Can I see the officer's report before the Planning Committee Meeting?

Yes. The agenda and reports will be available at the Town Hall five working days before the meeting. An additional paper (The Amendment Sheet), containing information received after the reports have been written and prior to the meeting, will be circulated at the meeting.

4. Can I speak at the Planning Committee Meeting?

Slough Borough Council has a public participation scheme that allows for speaking about a planning application if the application is recommended for approval by officers and is to be determined by the Planning Committee. You may speak if:-

- (a) you have made a written objection or lodged a petition and
- (b) registered to speak.

In the case of a planning application that is recommended for refusal the applicant has recourse to the statutory appeal process.

5. Can a member of the public speak about any application on the Agenda?

No. Members of the public can only speak if they have objected in writing to an application and registered to speak, in line with the Public Participation Scheme.

6. How much time will be allowed for speakers?

A total of four minutes per site/application will be allocated to hear the views of all objectors, four minutes for Parish Councils and four minutes for the applicant/agent. The Chair of the Planning Committee can in exceptional circumstances extend the time limit for all parties and his decision will be final.

7. What happens if there are a number of objectors wishing to speak?

- 7.1 The time limit remains the same and objectors will be encouraged to present a joint objection or appoint a spokesperson, as this is often the most effective use of the time available. In order to agree the best approach, objectors may contact the Planning Committee Clerk for details of others wishing to speak. The telephone and fax numbers and the e-mail address can be found in the Notice of Objection form which accompanies this leaflet. In some cases the Parish Council or a Residents' Association may be willing to represent objectors.
- 7.2 The Council needs to strike a balance between providing the opportunity for people to be heard and ensuring that the applications are dealt with efficiently, within a meeting of reasonable length. This is why there is a time limit on speakers.

8. Can someone else speak on my behalf?

Yes. You could ask a friend, relative or professional adviser to speak for you.

9. How do I present my objection?

The Committee may only consider relevant planning issues. Please limit your comments to matters such as:-

appearance and character of development
traffic generation, highway safety and parking
overshadowing, overlooking and loss of privacy
noise, disturbance and other loss of amenities
layout and density of buildings
relevant planning policies

Please avoid matters that cannot be considered by the Committee such as:-

boundary disputes, covenants or other property rights
personal remarks (e.g. the applicant's motives)
reduction in property values
loss of private view over the land

If you would like to check what issues are relevant, please contact the appropriate planning officer in the Department of the Green and Built Environment. Advice is given free of charge at present but is subject to review. You may be asked to pay a fee for specific advice from a Planning Officer in accordance with any charging scheme the Council may introduce.

If you have any questions or documentary evidence eg letters, maps, photographs etc in support of your objection they must normally be submitted to the appropriate planning officer at least 72 hours before the meeting. This will allow any such documents to be verified and to be given proper consideration by the Committee. Documents or questions submitted outside this deadline can only be considered in exceptional circumstances and with the approval of the Chair.

10. When and where are the meetings held?

Applications are dealt with by the Planning Committee, which meets at 6.30 p.m.

You will be advised by letter or e mail of the date of the meeting if the application you have objected to is to be considered by the Committee. Meetings are held in the Council Chamber, Bath Road, Slough. Directions to the meeting room will be given in the reception area at the Bath Road entrance to the Town Hall. There is disabled access. Car parking is available on site.

11. Who is on the Committee and who else will be there?

The Committee is made up of elected Councillors. Council staff attend to advise the Committee and make a formal record of the meeting. Other Councillors may be present to speak on applications within their Ward, but they cannot vote. Any member of the public or applicant may attend to listen to the debate and the Media is usually present.

12. What is the order of business at the meeting?

The Chair of the Planning Committee will normally amend the order of business on the Agenda and deal firstly with those applications where people have expressed a wish to speak under this Scheme.

13. What is the order of speaking for each application?

The Chair will announce the application.

A planning officer will give a short introduction.

The Chair will invite objectors to speak

The Chair will invite the applicant or agent to respond

The Chair will invite the Ward Councillor(s) to speak

The Chair will invite the Parish Council representative to speak.

Committee members may ask questions of the speakers and seek clarification of particular points from officers.

The Committee will then discuss the application and make a decision. This may be to:-

- approve the application
- refuse the application
- defer consideration eg for further information or amendments, or
- defer consideration for a site visit by a panel of Councillors.

14. What happens if an application is deferred for a Site Visit?

If, before the meeting, a councillor asks for a site viewing and the application is not discussed, you will be invited to speak at a subsequent meeting when the item will be considered. If, after hearing the objectors, the Committee decides to view a site, you will not be invited to speak again. **You will be given only one opportunity to speak on an application.**

15. Can Objectors speak at a Site Visit?

No. The site visit is private and its purpose is to observe characteristics of a site and its relationship to the surroundings. Representations on the merits of the application will not be discussed.

16. Can an application be approved by the Committee if it is recommended for refusal?

Yes the Committee (ie the Members elected by the public) can disagree with the officer's recommendation and if this does occur there will be no opportunity to speak under this Scheme before the decision is made

17. What happens after the decision is made?

The applicant/agent will be sent the notice of decision. Objectors/supporters ~~will be sent a letter outlining the decision~~ can view the decision on the Council's website. www.slough.gov.uk or inspect the Planning Register at the Planning Office. Where an application has been refused, the applicant can appeal to the Planning Inspectorate. You will be advised of any such appeal, your original comments will be forwarded to the Inspectorate and you will be asked for any further comments. Where an application has been granted, there is no opportunity for objectors to appeal.

LETTER 1 – STANDARD CONSULTATION LETTER

Date

Department: Department of the Green and Built Environment

Contact Name:

Contact No: 01753

Fax: 01753

The Owners/Occupiers

Our Ref: _____

Dear Sir/Madam

Re: Town and Country Planning Act 1990

Town and Country Planning (General Development Procedure) Order 1995

Location:

Proposal:

The Council has received the above application for (Outline/Full) planning permission and will take into account written comments received within 21 days from the date of this letter.

The application documents are available for inspection at the Department of the Green and Built Environment, 1st Floor, Town Hall, Slough during the hours of 9.30 a.m. to 4.30 p.m. Please bring this letter with you for reference. In addition, applications in the Parishes of Britwell, Colnbrook with Poyle and Wexham Court have been copied and sent to the appropriate Parish Council. Please contact your Parish Clerk to arrange an appointment if you wish to view the plans.

Should you wish to write I would draw your attention to the advice on the back of this letter. Please note that your letter will not normally be responded to other than by a standard acknowledgement letter. Issues raised in letters of representation are addressed through the Officer's report which is also available for inspection. There may, of course, be cases where an individual reply is appropriate, and this will be carried out at the discretion of the Planning Case Officer.

If you have any queries or require further information, please do not hesitate to contact (01753) or e-mail

Yours faithfully

.....
Planning Case Officer

Advice to Neighbours when commenting on Applications

The Council has a duty to reach a decision on planning applications based on the policies, criteria and standards set out in the adopted Local Plan for Slough, the Replacement Berkshire Structure Plan and other “material” considerations.

These notes are intended to help you to offer comments relevant to the consideration of the application.

Issues which cannot be taken into account:

- boundary disputes, covenants or other property rights
- matters dealt with by other legislation eg. standard of works
- inconvenience caused by building works
- opposition to business competition
- opposition to the principle of development when this has been settled by an outline planning permission or by allocation of the site within an adopted development plan
- the applicant's or objector's personal circumstances unless, exceptionally, these can be shown to be material, eg. disability
- personal remarks (eg the applicant's motives)
- reduction in property values
- loss of private view over the land

Issues which may be taken into account

- traffic generation, highway safety and parking
- overshadowing, overlooking and loss of privacy
- noise, disturbance or other loss of amenities
- relevant planning policies
- effect on trees
- design eg. height/bulk/position of buildings, appearance, effect on surrounding area
- inadequate landscaping/means of enclosure

If you do want to comment please ensure that your letter is received by the deadline given overleaf. Your representations will be acknowledged and taken into account in determining the application.

Please note that, by law, representations are open to public inspection. In the event of a subsequent appeal, such representations will be forwarded to the Planning Inspectorate and the appellant.

LETTER 2—ACKNOWLEDGEMENT/PUBLIC PARTICIPATION SCHEME LETTER

Date

Department: Department of the Green and Built Environment

Contact Name:

Contact No: 01753

Fax: 01753

Our Ref:

(Addressee)

Dear Sir/Madam

Re: Town and Country Planning Act 1990

Town and Country Planning (General Development Procedure) Order 1995

Location:

Proposal:

Thank you for your recent letter commenting on this application. The points which you have raised will be carefully considered and taken into account in arriving at a decision on the application.

The great majority of planning applications are relatively small and/or simple; as such they are resolved by officers under delegated authority and, therefore, do not come to the Planning Committee. In the event that this application does come before the Planning Committee, you may be able to address the Committee, though please be assured that points raised in a letter of objection will be summarised in the written report submitted to the Planning Committee.

I enclose a leaflet which explains our Public Participation Scheme. If you want to register your wish to speak please complete the attached form and return it to the Department of Resources by post, fax or e-mail the details of which are set out on the form. Requests by telephone cannot be accepted.

Please note that unless a request to speak is received by one of the above methods you will not be permitted to speak. Requests should be received by

The Planning Committee Administrator will then write to you to inform you of the date and time of the Committee Meeting at which this application will be considered approximately one week prior to that meeting. I shall advise you of the decision reached in due course.

If you wish to discuss details of the application, have any queries or require further information concerning the public participation scheme, please do not hesitate to contact me on (01753) or e-mail on (01753) or e-mail

Yours faithfully

.....
Planning Case Officer

PUBLIC PARTICIPATION SCHEME

OBJECTOR WISHING TO SPEAK

Location:

Proposal:

Application Reference:

I confirm that I would like the opportunity to address the meeting in the event of the above mentioned application being reported to Committee.

Objector's

Name

Address

Telephone No:

Signed

Please return to:

Planning Committee Clerk
Resource Department
Slough Borough Council
Town Hall
Bath Road
Slough
SL1 3UQ

Or Fax on: (01753) 875171

Or E-mail:

SLOUGH BOROUGH COUNCIL

REPORT TO: Council

DATE: 19th May 2011

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WARD(S): All

PART I
FOR DECISION

APPOINTMENT OF MONITORING OFFICER

1 Purpose of Report

This report recommends the appointment of the Assistant Director of Professional Services, Kevin Gordon to the role of council monitoring officer from 19th May 2011. This arrangement follows the deletion of the previous role of Borough Secretary and Solicitor and Deputy and make arrangements for the new roles of Monitoring Officer and Head of Legal Services as agreed within the Senior Management Restructure

The report also summarises some general improvements to the Monitoring Officer function.

2 Recommendation(s)/Proposed Action

The Council is recommended to:

- (1) Resolve that the Monitoring Officer role be undertaken by the Assistant Director Professional Services, supported by the Head of Legal Services and the Deputy Borough Secretary as deputies.
- (2) Note that minor changes to the constitution will be made to reflect the new arrangements.
- (3) Note the supporting arrangements and suggested improvements to the Monitoring Officer functions.

3 Community Strategy Priorities

The Monitoring Officer, along with the Head of Paid Service and the Section 151 Officer combine to form the Council's Statutory Officer functions. These roles are key to ensuring lawfulness, fairness, probity and general good governance that support the council in achieving its aims. It is important that they work effectively together yet maintain appropriate independence and that the roles are undertaken by adequately skilled and experienced staff supported by appropriate resources.

4 **Other Implications**

(a) Financial

The Monitoring Officer role attracts an additional annual allowance for which provision is made within the Democratic Services budget and was taken into account in the costs of the management restructure.

(b) Human Rights Act and Other Legal Implications

The appointment of a Monitoring Officer is a statutory requirement under Section 5, Local Government & Housing Act 1989.

4 **Supporting Information**

The Council's Monitoring Officer has a number of functions which are defined within Article 13 of the Council's constitution. These include; ensuring lawfulness and fairness of decision making, supporting the Standards Committee, receiving reports, conducting investigations, ensuring access to information, advising whether executive decisions are within the budget and policy framework and maintaining the constitution.

Following the Senior Management Restructure these function are to be undertaken by the Assistant Director Professional Services, whose line management accountabilities include Democratic and Legal Services. The Assistant Director will be supported to carry out the role by the new position of Head of Legal Services and the existing Deputy Borough Secretary role.

There is no statutory requirement for the Monitoring Officer to be legally qualified. It is important that the Monitoring Officer has the knowledge, training, support and systems to deploy appropriate judgement and to fulfil their role robustly and independently. It is also important that they have sufficient status in the organisation and independent access to Members, the Chief Executive and the management team to be able to exert suitable authority. Members and the District Auditor need to have confidence in this approach. To ensure that the new arrangement works well the following will be put in place or reviewed:

- A Monitoring Officer Protocol which will include clarity of access to Members, the Chief Executive and CMT.
- Greater formality of the regular statutory officer meetings between the Head of Paid Service, the Section 151 Officer and the Monitoring Officer.
- Development, mentoring and networking programme for the Monitoring Officer.
- Clarity in the roles, responsibilities and reporting lines of the Monitoring Officer and the two deputy roles.
- Periodic review of the above practice and effectiveness of and performance in the role.

As part of the appointment process, officers have also taken the opportunity to review the effectiveness of the arrangements that support the successful execution of the role. Areas that would benefit from further examination and Improvements throughout the year include:

- More effective ways to communicate and promote expectations around high standards of personal behaviour, through the Standards Committee.
- System and timetables for approval and dispatch of reports are strengthened.

6 **Conclusion**

The role of the Monitoring Officer is an important element in the Council's structure and processes. The arrangements outlined in this paper will ensure that the functions continue to be discharged appropriately, including improvements where necessary.

7 **Background Papers**

None

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