



**PART 4**

**RULES OF PROCEDURE**

## 4.1 PART 4.1 — COUNCIL PROCEDURE RULES

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## **4.1 – 1 ANNUAL MEETING OF THE COUNCIL**

### **4.1 – 1.1 TIMING**

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place:

- no earlier than the eighth day after the day of retirement of the outgoing Councillors
- in any event within 21 days of such retirement.

The retirement date for councillors is on the fourth day after the day of the election not on election day itself.

Consequently, where an election takes place on a Thursday, outgoing councillors retire on the following Monday and the earliest day for the Annual Meeting is the Tuesday of the week after that.

In any other year, the Annual Meeting will take place in March, April or May.

### **4.1 – 1.2 BUSINESS**

The Annual Meeting will:

- (a) Elect a councillor chosen by the councillors present to preside if the Mayor and Deputy Mayor are not present (except that the councillor chosen cannot be a member of the Cabinet).
- (b) Elect from among its councillors the Mayor. [This is required by law to be the first item of business – section 4(1) of the Local Government Act 1972].
- (c) Appoint from among its councillors the Deputy Mayor.
- (d) Approve the minutes of the last Council meeting.
- (e) Receive any declarations of interest from Members.
- (f) Receive any announcements from the Mayor.
- (g) Elect from among its councillors the Leader of the Council/Cabinet in the case where the Leader of the Cabinet's four year term of office has ended.

- (h) Note the number of councillors to be appointed by the Leader to the Cabinet and the names of those Members.
- (i) Appoint at least one overview and scrutiny committee, and such other committees as required by law or which the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive (i.e. Cabinet) functions (as set out in [Part 3](#) of this Constitution).
- (j) Agree the [scheme of delegation](#) or such part of it as the law determines it is for the Council to agree (as set out in Part 3 of this Constitution).
- (k) Approve a programme of ordinary meetings of the Council for the municipal year.
- (l) Consider any business set out in the notice and summons convening the meeting.
- (m) Consider any 'urgent business' which the person presiding is of the opinion by reason of special circumstances should be considered as a matter of urgency.

#### **4.1 – 1.3 SELECTION OF COUNCILLORS ON COMMITTEES AND OUTSIDE BODIES**

At the Annual Meeting, the Council meeting will:

- (a) Decide which committees to establish for the municipal year and until the next Annual Meeting.
- (b) Decide the size, terms of reference and appoint the Chairman and Vice Chairman for those committees.
- (c) Decide the allocation of seats to political groups in accordance with the political balance rules.
- (d) Receive nominations of Councillors and make appointments to serve on each Committee and those outside bodies where the Council requires representation.

## **4.1 – 2 ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting which may be subsequently varied under the scheme of delegations. Ordinary meetings will:

- (a) Elect a councillor chosen by the councillors present to preside if the Mayor and Deputy Mayor are not present (except that the councillor chosen cannot be a member of the Cabinet).
- (b) Approve the minutes of the last meeting.
- (c) Receive any declarations of interest from Members.
- (d) Receive any announcements from the Mayor, Leader, Members of the Cabinet or the Head of Paid Service.
- (e) Deal with any business from the last Council meeting.
- (f) Receive reports from the Leader of the Council/Cabinet, Cabinet and the Council's Committees and receive questions and answers on any of those reports.
- (g) Receive reports, raise questions, make comments and receive answers, either orally or within five working days, on the business of joint arrangements and external organisations.
- (h) Consider motions.
- (i) 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 Committees for debate.
- (j) Consider any 'urgent business' which the person presiding is of the opinion by reason of special circumstances should be considered as a matter of urgency.

## **4.1 – 3 EXTRAORDINARY MEETINGS**

Those listed below may require the Executive Director (Resources) to call Council meetings in

addition to ordinary meetings:

- (a) The Council by resolution.
- (b) The Mayor.
- (c) The Monitoring Officer.
- (d) Any five Members of the Council if they have signed a requisition presented to the Mayor, and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **4.1 – 4 MEETINGS CONVENED FOR SPECIAL PURPOSES**

**4.1 – 4.1** Those listed below may require the Executive Director (Resources) to call Council meetings for special purposes required by law:

- (a) The Council by resolution.
- (b) The Mayor.
- (c) The Monitoring Officer.

Examples of convening a Council meeting for a specific purpose include

- To change the name of the district under section 74 of the Local Government Act 1972
- To promote or oppose any local or personal Bill in Parliament under section 239 of the Local Government Act 1972
- To confer honorary titles (alderman/alderwoman and freeman/freewoman) under section 249 of the Local Government Act 1972.
- To resolve to change to whole council elections under sections 32 – 34 of the Local Government and Public Involvement in Health Act 2007.

#### **4.1 – 5 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

**4.1 – 5.1** Subject to rule 4 – 1.5.2 a substitute Member may take the place of a Member who is unable to attend a meeting of one of the Council's Committees or Sub-Committees.

Such substitute Member, once named by a Member of the absent Member's political group, will be accepted onto the Committee or Sub-Committee etc. with power to speak and vote.

If the standing Member attends during the course of the meeting the substitute Member will

withdraw and the standing Member will take his/her place.

**4.1 – 5.2** Substitute members are not permitted in meetings of the following:

- Improvement and Scrutiny Committee
- Planning Board
- Licensing Board
- Standards and Appeals Committee

**4.1 – 6 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Executive Director (Resources) and notified in the summons and public notice.

**4.1 – 7 NOTICE OF AND SUMMONS TO MEETINGS**

The Executive Director (Resources) will give notice to the public of the time and place of any meeting in accordance with the [Access to Information Procedure Rules](#).

At least five clear working days before a meeting, or such other period as may be required, the Executive Director (Resources) will send a summons authenticated (normally by signature) by him or her by an appropriate method that is

- (i) Leaving it at, or sending it by post to, the Member's usual place of residence, or
- (ii) Where the Member has specified an address other than the Member's usual place of residence, leaving it at, or sending it by post to that different address, or
- (iii) Where the Member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn), sending it in electronic form to that address.

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.

**4.1 – 8 CHAIRMAN OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor or where these Rules apply to Committee and Sub-Committee meetings of the Council, the Chairman. This includes the common law power of the person presiding to remove a person from the meeting if the meeting is being disrupted by that person through their conduct or behaviour.

## **4.1 – 9 QUORUM**

### **4.1 – 9.1 COUNCIL MEETINGS**

The quorum of a meeting will be one quarter of the whole number of Members (subject to paragraph 45 of Schedule 12 to the Local Government Act 1972 which determines the quorum by reference to the number of members remaining qualified rather than the whole number of members in the event of more than one-third of the members being disqualified).

During any meeting if the person presiding 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 person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### **4.1 – 9.2 COMMITTEE/BOARD MEETINGS**

**4.1 – 9.2.1** Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of any Committee/Board unless at least one quarter of the whole number of the Committee/Board is present (provided that in no case shall the quorum of a Committee be no fewer than three elected Members of the Council).

**4.1 – 9.2.2** The quorum of the Improvement and Scrutiny Committee shall be agreed by that body but shall not be less than three elected Members of the Council.

### **4.1 – 9.3 SUB-COMMITTEE MEETINGS**

Except as aforesaid or otherwise ordered by the Committee which has appointed it, business shall not be transacted at a Sub-Committee of the Council unless at least one third of the Sub-Committee is present, subject to a minimum of three elected Members of the Council.

### **4.1 – 10 DURATION OF MEETING**

All Full Council meetings shall stand adjourned after 2½ hours or at such later time as the person presiding shall determine.



## **4.1 – 11 PUBLIC SPEAKING**

### **4.1 – 11.1 PUBLIC SPEAKING AT ORDINARY MEETINGS OF THE COUNCIL**

#### **4.1 – 11.1.1 GENERAL**

At the beginning of each ordinary meeting of the Council, on the invitation of the person presiding, members of the public may make representations, give evidence and ask questions to any Councillor (and answer questions if invited to do so by the person presiding) at the Full Council on any matter relating to an item of business on the Council Agenda of that meeting where such item of business is held in public session.

Petitions may also be submitted which affects any part of the Borough or its inhabitants (see Rule 4.1 – 23.1 ‘(Presentation of Petition By Members’’)).

A total period of 20 minutes for the public speaking session as a whole shall be allowed for this purpose or such other period as the person presiding shall decide (see Rule 4.1 – 11.1.3 for the length of speech for each speaker).

Speakers shall be invited by the person presiding to give details of their name and address and the subject on which they wish to speak. Where a speaker holds an office of councillor for any local authority, that speaker shall declare this fact to the meeting. (This is because the Court of Appeal has held that a councillor cannot divest themselves of their office by asserting that there are attending in a purely private capacity) (see Rule 4.4 – 2.5 ‘Public Speaking at Meetings of the Cabinet and its Committees’).

#### **4.1 – 11.1.2 ORDER OF SPEAKERS**

The order of speakers shall be determined by the person presiding.

#### **4.1 – 11.1.3 LENGTH OF SPEECH**

Each speaker may not speak for more than three minutes but may be extended at the discretion of the person presiding (see Rule 4.1 – 11.1.5 ‘(Response’’)).

#### **4.1 – 11.1.4 CONTENT OF SPEECHES**

When addressing the Council, speakers must:

- Give their name and address
- Restrict their speech to matters relating to functions of the Council

- Be polite and not make slanderous, frivolous or offensive comments
- Not disclose confidential or exempt information
- Not make allegations about the conduct of Members or Officers\*

*\*The person presiding/Monitoring Officer will intervene and advise the speaker on how those allegations can be best pursued.*

#### **4.1 – 11.1.5      RESPONSE**

The name of the speaker and only the title of the subject shall be recorded in the Minutes. Unless the speaker is satisfied with just having an oral response, the speaker shall be sent a written or electronic response normally within 10 clear days, a copy of which shall be placed in a public register of oral questions under Rule 4.1 – 11 ('Public Speaking') and answers thereto (together with sufficient details of the oral question to ensure openness and transparency). There shall be no debate upon the speaker's comments unless the person presiding determines otherwise.

#### **4.1 – 11.1.5      CONDUCT**

There will be no debate on any matter raised during the speeches. The conduct of public speaking shall be at the discretion of the person presiding, and no Member shall challenge the exercise of that discretion during the meeting. Rule 4.1 – 22 ('Disturbance by public') below shall continue to apply.

### **4.1 – 11.2          PUBLIC SPEAKING AT THE COUNCIL'S COMMITTEE MEETINGS**

#### **4.1 – 11.2.1      GENERAL**

At the beginning of each public meeting of the following Committees/Boards, members of the public may, on the invitation of the person presiding, make representations, give evidence and ask questions (and answer questions if invited to do so by the Chairman) on any matter falling within their terms of reference provided it relates to an item of business on the Committee/Board Agenda for that meeting unless otherwise prohibited:

- Governance and Audit Board
- Licensing Board
- Planning Board
- Improvement and Scrutiny Committee
- Standards and Appeals Committee

## **4.1 – 11.2.2 DETAILED RULES**

The detailed Rules applying the rights granted under rule 4.1 – 11.2.1 ('General') above shall be agreed by each Committee/Board or in the absence of any agreed Rules, as determined by the Chairman of that Committee/Board.

## **4.1 – 11.2.3 EXCLUSIONS**

For the purposes of the Licensing Board, members of the public do not have a right to make representations and ask questions unless they have submitted written representations or the person presiding exercises his discretion to allow them to speak at the meeting.

When considering matters under the Licensing Act 2003, members of the public are not entitled to speak at Licensing Panel hearing unless they have previously submitted relevant representations as defined in the Act.

## **4.1 – 12 QUESTIONS BY MEMBERS**

### **4.1 – 12.1 QUESTIONS ON REPORTS OF THE CABINET OR COMMITTEES**

A Member of the Council may ask the Leader or the Chairman of a Committee/Board any question without notice upon an item of the report of the Leader of the Cabinet, Cabinet or a Committee/Board when that item of business is being received or under consideration by the Council.

### **4.1 – 12.2 QUESTIONS ON NOTICE AT FULL COUNCIL**

Subject to Rule 12.4 ('Notice of questions by a Member'), a Member of the Council may ask questions (on any matter in relation to which the Authority has powers or duties or which affect the area or part of the Borough or its inhabitants) of:

- The Mayor
- A Member of the Cabinet
- The Chairman of any Committee or Sub-Committee

### **4.1 – 12.3 QUESTIONS ON NOTICE AT COMMITTEES AND SUB-COMMITTEES**

Subject to Rule 4.1 – 12.4 ('Notice of questions by a Member'), a Member of a Committee/Board or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the

Council has powers or duties or which affect the area or part of the Borough and which falls within the terms of reference of that Committee/Board or Sub-Committee.

#### **4.1 – 12.4 NOTICE OF QUESTIONS BY A MEMBER**

A Member of the Council may only ask a question under Rule 4.1 – 12.2 ('Questions on notice at Full Council') or 4.1 – 12.3 ('Questions on notice at committees and sub-committees') if either:

- (a) They have given, not later than 12 noon on the [working day](#) preceding the meeting, notice in writing or electronically of the question to the Executive Director (Resources).
- (b) The question relates to urgent matters, they have the consent of the person presiding to whom the question is to be put and the content of the question is given to the Executive Director (Resources) by 12 noon on the day of the meeting.

#### **4.1 – 12.5 RESPONSE**

Every question asked by the Member of the Council in person shall be answered without discussion and an answer may take the form of:

- (a) A direct oral answer.
- (b) Where the desired information is in a publication of the Authority or other published work, a reference to that publication.
- (c) Where the reply cannot conveniently be given orally (for example, when there is a large number of figures in the reply), a written answer circulated later to the questioner (and any other Member(s) on request). Such written answer shall normally be sent within ten clear days and included in the minutes of the meeting to which those minutes are subsequently reported.

NB. Where the Member of the Council who duly gave notice of their wish to ask such a question is absent from the meeting, a written answer shall instead be provided to that Member (and circulated to any other Member on request) and shall normally be sent within ten clear days and included in the minutes of the meeting to which those minutes are subsequently reported.

## **4.1 – 12.6 SUPPLEMENTARY QUESTION**

A Member of the Council asking a question under Rules 4.1 – 12.1 to 4.1 – 12.3 may ask one supplementary question at that meeting without notice of the Member to whom the first question was asked except where a written answer is offered under Rule 4.1 – 12.5(c).

In all cases, the supplemental question must arise directly out of the original question or the reply.

If a written answer is given under Rule 4.1 – 12.5(c) then the supplementary question can be asked during the reporting of the written answer at the next suitable meeting.

Whenever a supplementary question is asked, the person presiding may at their discretion require that question to be taken down in writing in order to ensure proper record keeping and accuracy.

No supplementary question shall be put to the relevant meeting in any way other than in the form of a question. Speeches are not permitted by the questioner with a question added to the end.

## **4.1 – 13 MOTIONS ON NOTICE**

### **4.1 – 13.1 NOTICE**

Except for motions which can be moved without notice under Rule 4.1 – 14 ('Motions without notice'), written or electronic notice of every motion, signed by the Member(s), must be delivered to the Executive Director (Resources) not later than ten [clear working days before](#) the date of the meeting (i.e. ignoring the day of the meeting and ignoring the day of delivery of the notice). These will be entered in a book open to public inspection.

### **4.1 – 13.2 MOTION SET OUT IN AGENDA**

Motions for which notice has been given and if valid (see Rule 4.1 – 13.3 ('Scope')) will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing or electronically, that they intend to move it to a later meeting or withdraw.

### **4.1 – 13.3 SCOPE**

To be valid, motions must be about matters for which the Authority has a responsibility or

which affect the area of the Borough or its inhabitants, and must not, in the opinion of the Monitoring Officer, be, in whole or in part, frivolous, libellous, offensive or vexatious or for which there is a different procedure laid down by law or under this Constitution or otherwise offend any law.

#### **4.1 – 14 MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice and should normally be proposed by a Member of the Council present and seconded by another Member of the Council present:

- (a) To appoint a Chairman of the meeting at which the motion is moved.
- (b) In relation to the accuracy of the minutes.
- (c) To change the order of business in the agenda.
- (d) To refer something to an appropriate 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 in whole or in part to adopt as a motion the recommendation(s) of the Leader of the Cabinet, the Cabinet, Committees/Boards 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 Procedure Rules](#).
- (o) To not hear further a Member named under Rule 4.1 – 21.3 ('Member not to be heard further') or excluded from the meeting under Rule 4.1 – 21.4 ('Member to leave the meeting').
- (p) To give the consent of the Council where its consent is required by this Constitution.

## **4.1 – 15 RULES OF DEBATE**

### **4.1 – 15.1 RIGHT TO REQUIRE MOTION IN WRITING**

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

### **4.1 – 15.2 CONTENT AND LENGTH OF SPEECHES**

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

No speech may exceed five minutes without the consent of the person presiding.

### **4.1 – 15.3 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.
- (f) By way of personal explanation.

This rule **4.1 – 15.3** ('When a Member may speak again') applies only to meetings of the Council.

#### **4.1 – 15.4 AMENDMENTS TO MOTIONS**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) To refer the matter to an appropriate body or individual for consideration or reconsideration
  - (ii) To leave out words
  - (iii) To leave out words and insert or add others or
  - (iv) To insert or add words  
as long as the effect of (ii) to (iv) is not to negate the motion
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which further amendments can be moved.
- (e) After an amendment has been carried, the person presiding will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **4.1 – 15.5 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 the meeting.

The meeting's consent will be signified without discussion.

- (c) Only alterations which could be made as an amendment may be made.

#### **4.1 – 15.6 WITHDRAWAL OF MOTION**

A Member may withdraw a motion which he/she has moved with the consent of the meeting.

The meeting's consent will be signified without discussion.

No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **4.1 – 15.7 RIGHT OF REPLY**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### **4.1 – 15.8 MOTIONS WHICH MAY BE MOVED DURING DEBATE**

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

- (a) To withdraw a motion.
- (b) To amend a motion.

- (c) To proceed to the next business.
- (d) That the question be now put.
- (e) To adjourn a debate.
- (f) To adjourn a meeting.
- (g) To exclude the public and press in accordance with the [Access to Information Procedure Rules](#).
- (h) To not hear further a Member named under Rule 4.1 – 21.3 ('Member not to be heard further') or to exclude them from the meeting under Rule 4.1 – 21.4 ('Member to leave the meeting').

#### **4.1 – 15.9 CLOSURE MOTIONS**

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) To proceed to the next business
  - (ii) That the question be now put
  - (iii) To adjourn a debate or
  - (iv) To adjourn a meeting
- (b) If a motion to proceed to next business is proposed and the person presiding thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is proposed and the person presiding thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

- (d) If a motion to adjourn the debate or to adjourn the meeting is proposed and the person presiding thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **4.1 – 15.10 POINT OF ORDER**

A Member may raise a point of order at any time. The person presiding will hear it immediately.

A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law.

The Member must indicate the Rule or law and the way in which he/she considers it has been broken.

The ruling of the person presiding shall be final and shall not be challenged at the meeting at which the ruling is given (see Part 2 Article 16.2 ('Interpretation') of the Constitution).

#### **4.1 – 15.11 PERSONAL EXPLANATION**

A Member of the Council may make a personal explanation at any time.

A personal explanation may only relate to some material part of an earlier speech by the particular Member making the personal explanation which may appear to have been misunderstood in the present debate.

NB. This is not an opportunity to circumvent Rule 4.1 – 15.3 ('When a Member may speak again') by improperly re-opening debate through the guise of making a personal explanation. Making a personal explanation is distinct from making a point of information (the latter not being specifically permitted).

#### **4.1 – 16 PREVIOUS DECISIONS AND MOTIONS**

##### **4.1 – 16.1 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 5 Members of the Council.

## **4.1 – 16.2 MOTION SIMILAR TO ONE PREVIOUSLY REJECTED**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 5 Members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months except where the law otherwise permits.

## **4.1 – 17 VOTING**

### **4.1 – 17.1 MAJORITY**

Unless 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 other than:-

**(i) When voting to confer honorary titles**

Not less than a two-thirds majority vote of the Members present and voting at a meeting of the Full Council specially convened for the purpose of deciding whether to confer the title of honorary alderman or alderwomen or the title of honorary freeman or honorary freewoman of the Borough of Amber Valley shall be required to carry such vote under section 249 of the Local Government Act 1972

**(ii) When voting to change the name of the district/borough**

Not less than a two-thirds majority vote of the Members present and voting at a meeting of the Full Council specially convened for the purpose of changing the name of the district/borough shall be required to carry such a vote under section 74(1) of the Local Government Act 1972

**(iii) When voting on changes to the electoral cycle of the Authority**

No less than two-thirds of the Members present and voting at a meeting of the Full Council specially convened for the purpose of changing the scheme of elections shall be required to carry such a vote as to change to whole-council elections

**(iv) When disapplying the political balance rules**

A unanimous vote of those present and voting is required to disapply the political balance rules under section 17(1)(b) of the Local Government and Housing Act 1989 and regulations made thereunder.

#### **4.1 – 17.2 CASTING VOTE OF PERSON PRESIDING**

If there are equal numbers of votes for and against, the person presiding will have a second or casting vote.

If the person who normally presides is absent, the following person will have a second or casting vote:

- the Deputy Mayor (in the case of the Mayor being absent from a meeting of Full Council)
- the Vice-Chairman (in the case of the Chairman being absent from a meeting of a committee)

If both the person who normally presides and the deputy are absent, the person elected to preside at the meeting will have a second or casting vote.

There will be no restriction on how that person chooses to exercise a casting vote and indeed whether or not that person chooses to use such a casting vote (except that in the case of the election of the Mayor there is a requirement to break any deadlock through the use of the casting vote under section 4(3) of the Local Government Act 1972).

#### **4.1 – 17.3 SHOW OF HANDS**

Subject to Rule 4.1 – 17.6 ('Recorded votes at a budget meeting') below, unless a recorded vote is demanded under Rule 17.4 ('Recorded vote'), the person presiding will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### **4.1 – 17.4 RECORDED VOTE**

If one third of the Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

This rule 4.1 – 17.4 applies only to meetings of Full Council.

#### **4.1 – 17.5 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.

#### **4.1 – 17.6 RECORDED VOTES AT A BUDGET MEETING**

Immediately after a vote is taken at a budget meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote in favour of the decision or against the decision or who abstained from voting.

A Member who is more than two months in arrears with payments of his/her Council Tax may not by law take part in any meeting of the Council or its Committees when any of the following matters are to be discussed:

- (a) Any matters relating to the Council's responsibilities as the billing and precepting Authority and any discussion on the capping regime;
- (b) Anything to do with the setting of the Council Tax;
- (c) Any matter which would have an effect on the calculation of the charge and anything else to do with the budget; or
- (d) Anything to do with the enforcement of the collection of Council Tax.

#### **4.1 – 17.7 VOTING ON APPOINTMENTS**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, 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.

#### **4.1 – 17.8 CHALLENGE TO VOTE RESULT**

Where immediately after the vote there is a dispute raised as to the counting of the votes cast, the person presiding shall forthwith at that meeting clarify the matter by checking the voting of members present, if need be by a re-count of the vote. The purpose is to check whether the counting was accurate and is not to allow any particular member to change the way in which his/her vote had been cast.

#### **4.1 – 18 MINUTES**

##### **4.1 – 18.1 SIGNING THE MINUTES**

The person presiding will sign the minutes of the proceedings at the next suitable meeting. The person presiding will move that the minutes of the previous meeting be signed as a correct record.

The only part of the minutes that can be discussed is their accuracy (except that if a written answer has been given to a Member under Rule 4.1 – 12.5 (c) ('Response') then a supplementary question can be asked by that Member during the consideration of the minutes of the meeting at which the question had been asked). Considering the accuracy of the minutes is not an opportunity to resume debate nor to report subsequent action. The requirement for items of business to be on the relevant agenda is not to be circumvented.

#### **4.1 – 18.2 NO REQUIREMENT TO SIGN MINUTES OF PREVIOUS MEETING AT EXTRAORDINARY MEETING (MANDATORY STANDING ORDER)**

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.

#### **4.1 – 19 ATTENDANCE AND RECORD OF ATTENDANCE**

All Members of the Council may attend any meeting of the Council and their Committees/Boards and Sub-Committees (subject to Rule 4.1 – 21.4 ('Member to leave the meeting')) unless due to the specific nature of particular confidential or exempt business the obligation of confidence requires or the proper exercise of discretion or the existence of personal interests means that exclusion of that particular Member of the Council is warranted.

All Members of the Council 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.

#### **4.1 – 20 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the [Access to Information Procedure Rules](#) in Part 4 of this Constitution or Rule 4.1 – 22 (Disturbance by Public).

#### **4.1 – 21 MEMBERS' CONDUCT**

##### **4.1 – 21.1 STANDING TO SPEAK**

When a Member speaks at Full Council they must stand and address the meeting through the person presiding.

If more than one Member stands, the person presiding 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.

This rule 4.1 – 21.1 ('Standing to speak') applies only to meetings of Full Council, and the words 'stand' and 'standing' shall be interpreted in these Rules in accordance with the requirements of the Equality Act 2010.

#### **4.1 – 21.2 PERSON PRESIDING STANDING**

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

#### **4.1 – 21.3 MEMBER NOT TO BE HEARD FURTHER**

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

#### **4.1 – 21.4 MEMBER TO LEAVE THE MEETING**

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

#### **4.1 – 21.5 GENERAL DISTURBANCE**

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

#### **4.1 – 22 DISTURBANCE BY PUBLIC**

##### **4.1 – 22.1 REMOVAL OF MEMBER OF THE PUBLIC**

If a Member of the public interrupts proceedings, the person presiding may warn and will normally warn the person concerned. If they continue to interrupt, the person presiding may and will usually order their removal from the meeting room.



## **4.1 – 22.2 CLEARANCE OF PART OF MEETING ROOM**

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

## **4.1 – 23 PETITIONS**

### **4.1 – 23.1 PRESENTATION OF PETITION BY MEMBERS**

Any Member of the Council may present a petition at a Council Meeting which affects any part of the Borough or its inhabitants.

### **4.1 – 23.2 NOTIFICATION OF INTENTION TO PRESENT A PETITION**

The Executive Director (Resources) and Mayor or other person presiding must be advised before the meeting commences that a Member of the Council intends to present a petition and the general nature of it.

## **4.1 – 24 COMMITTEE AGENDA ITEMS (INCLUDING REFERRALS)**

**4.1 – 24.1** Unless there are any specific legislative constraints, and subject to any other rules or codes of practice in this Constitution, any Member of the Council may make a written request to the Chairman of a Committee/Board to have considered by that Committee/Board any relevant matter to that Committee's or Board's terms of reference and if that request is accepted the Chairman shall determine at which meeting, which shall (with the exception of the Planning Board) be normally within a period of three months, the item shall be placed on the agenda for that meeting. This does not affect any statutory rights to place an item on any agenda (see e.g. the Overview and Scrutiny Procedure Rules in Part 4.5 of this Constitution).

With regard to the Planning Board, a request for referral of a matter to the Planning Board for decision by any Member of the Council cannot be refused by the Chairman of the Planning Board unless the Chairman of the Planning Board reasonably regards the request for referral as irrational and/or frivolous. The Member making the request shall act responsibly by properly considering the need and reason(s) for referral and shall specify clearly (in writing or electronically) in the particular request for referral why the matter needs the specific attention of the Planning Board and why it cannot be dealt with under delegated authority. (The Authority needs to be mindful of the deadlines for determination).

NB. Rule 5.3 – 15.1 ('Guidance on the referral of planning applications to Planning Board') specifically gives a local Member the right to request that a decision be referred to the

Planning Board within 28 days of the start of the notification period, and under Rule 5.3 – 15.2 ('Material planning considerations and the reasons for referral') the reason for the referral needs to be stated in the referral request.

## **4.1 – 25 RESOLVING CABINET/COUNCIL CONFLICT (MANDATORY STANDING ORDER)**

### **4.1 – 25.1 OBJECTIONS BY COUNCIL TO DRAFT PLAN OR STRATEGY**

Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in Rule 4.1 – 25.2 ('Procedure').

### **4.1 – 25.2 PROCEDURE**

Before the Council:

- (a) Amends the draft plan or strategy.
- (b) Approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted.
- (c) Adopts (with or without modification) the plan or strategy,

it must inform the Cabinet Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

### **4.1 – 25.3 TIMESCALE**

Where the Council gives instructions in accordance with Rule 4.1 – 25.2 ('Procedure'), it must specify a period of at least five working days beginning on the day after the date on which the Cabinet Leader receives the instructions on behalf of the Cabinet within which the Cabinet Leader may:

- (a) Submit a revision of the draft plan or strategy as amended by the Cabinet (the 'revised draft plan or strategy'), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for consideration.

- (b) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

#### **4.1 – 25.4 MATTERS TO BE TAKEN INTO ACCOUNT BY COUNCIL**

When the period specified by the Council, referred to in Rule 4.1 – 25.3 ('Timescale'), has expired, the Council must, when:

- (a) Amending the draft plan or strategy or, if there is one, the revised draft plan or strategy.
- (b) Approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted.
- (c) Adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Cabinet Leader submitted to the Council, or informed the Council of, within the period specified.

#### **4.1 – 25.5 ESTIMATES BY CABINET UNDER THE LOCAL GOVERNMENT FINANCE ACT 1992**

Subject to Rule 4.1 – 25.9 ('Exclusions'), where, before 8th February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

- (a) Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of the Sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992.
- (b) Estimates of other amounts to be used for the purposes of such a calculation.
- (c) Estimates of such a calculation.

- (d) Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992, and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in Rule 4.1 – 25.6 ('Objections by Council to Estimate').

#### **4.1 – 25.6 OBJECTIONS BY COUNCIL TO ESTIMATE**

Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the Sections referred to in Rule 4.1 – 25.5(a) ('Estimates by Cabinet under the Local Government Finance Act 1992'), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Cabinet Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

#### **4.1 – 25.7 TIMESCALE**

Where the Council gives instructions in accordance with Rule 4.1 – 25.6 ('Objections by Council to Estimate'), it must specify a period of at least five working days beginning on the day after the date on which the Cabinet Leader receives the instructions on behalf of the Cabinet within which the Cabinet Leader may:

- (a) Submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for consideration.
- (b) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

#### **4.1 – 25.8 MATTERS TO BE TAKEN INTO ACCOUNT BY COUNCIL**

When the period specified by the Council, referred to in Rule 4.1 – 25.7 ('Timescale'), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the Sections referred to in Rule 4.1 – 25.5 (a) ('Estimates by Cabinet under the Local Government Finance Act 1992'), or issuing a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, take into account:

- (a) Any amendments to the estimates or amounts that are included in any revised

estimates or amounts.

- (b) The Cabinet's reasons for those amendments.
- (c) Any disagreement that the Cabinet has with any of the Council's objections.
- (d) The Cabinet's reasons for that disagreement,

which the Cabinet Leader submitted to the authority, or informed the authority of, within the period specified.

#### **4.1 – 25.9 EXCLUSIONS**

Rules 4.1 – 25.5 to 4.1 – 25.8 shall not apply in relation to:

- (a) Calculations or substitute calculations which a Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act, 1992.
- (b) Amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Sections 52J or 52U of that Act.

#### **4.1 – 26 APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of Full Council unless indicated otherwise.

Only the following Rules apply to meetings of Committees (which includes Boards) and Sub-Committees:

- 4.1 – 5 (in part),
- 4.1 – 6 to 4.1 – 8,
- 4.1 – 9.2 and 4.1 – 9.3
- 4.1 – 11.2
- 4.1 – 14,
- 4.1 – 15 (excluding 4.1 – 15.3 relating to speaking more than once)
- 4.1 – 17 to 4.1 – 29 (but not Rules 4.1 – 17.4 and 4.1 – 21.1)

In applying these Council Rules of Procedure to Committees/Boards and Sub Committees etc. such Rules shall apply 'mutatis mutandis'. (The phrase 'mutatis mutandi' is Latin and means "that having been changed which had to be changed" or more commonly "with the necessary changes").

#### **4.1 – 27 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

All of these Council Rules of Procedure except Rules:

- 4.1 – 17.5,
- 4.1 – 17.6,
- 4.1 – 18.2,
- 4.1 - 19
- 4.1 – 25 and
- 4.1 – 28

may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council or Committee/ Board are present. Suspension can only be made for the duration of the meeting.

#### **4.1 – 28 DISCLOSURE OF PECUNIARY, PERSONAL AND PREJUDICIAL INTERESTS**

##### **4.1 – 28.1 REQUIREMENT TO DISCLOSE INTERESTS**

At all meetings of the authority Members must disclose any pecuniary or personal interests in accordance with the Code of Conduct for Members and the requirements set out in Rule 4.1 – 28.3 ('Procedure at Meetings') below.

##### **4.1 – 28.2 DISCLOSABLE PECUNIARY INTERESTS**

Where a member has a Disclosable Pecuniary Interest as defined by regulations under the Localism Act 2011, he or she shall leave the meeting (including the public gallery) prior to the discussion and voting on the item.

##### **4.1 – 28.3 PROCEDURE AT MEETINGS**

Prior to the commencement of the meeting, Members shall complete the declaration of interest sheet available at the meeting whether or not that Member is a Member of the particular body. Attendance by a Member of the Council is sufficient to trigger the requirement to complete such a sheet as a Member cannot divest himself/herself of their status as a Member. At the start of the meeting, the

Monitoring Officer shall read aloud the contents of the sheet. If a Member arrives after the details on the sheet have been reported to the meeting, the Member shall declare his/her interest in any business of the Council at the commencement of that consideration or when the interest becomes apparent.

#### **4.1 – 29 DEFINITIONS**

In these Council Rules of Procedure unless statutory provision or the context otherwise requires the following provisions shall apply:

##### **4.1 – 29.1 CALCULATION OF TIME**

**4.1 – 29.1.1** A period of time expressed as a number of days shall be computed as clear working days.

**4.1 – 29.1.2** Parts of days shall be disregarded unless specifically stated.

**4.1 – 29.1.3** If any rule requires any document or notice to be delivered to or received by an officer or councillor within a specified time it must take place during the Council's normal working hours.

##### **4.1 – 29.2 MEANING OF WORDS AND PHRASES**

(a) “at least” in the context of a period of time means “a minimum of”

(b) “clear days” means that in computing the number of days,

(i) the day on which the period begins; and

(ii) if the end of the period is defined by reference to an event, the day on which that event occurs

are not included.

(c) “day” means a period of 24 hours starting at midnight

(d) “normal working hours” means 9.00 am to 4.30 pm every Monday, Tuesday, Thursday and Friday and 10.00 am to 4.30 pm every Wednesday.

(e) “working day” means any day from Monday to Friday (inclusive) , excluding any bank or other national holidays.

**Example:**

“At least five clear working days” or ““No later than five clear working days” before the meeting

If the meeting is to take place on Wednesday (e.g. 12<sup>th</sup>) the deadline would be Tuesday (4<sup>th</sup>).

The following days would be excluded:

- Tuesday (4<sup>th</sup>) (the day the period begins) (see 4.1 – 29.2 (b) (i))
- Saturday, Sunday (non-working days) (see 4.1 – 29.2 (e)) and
- Wednesday 12<sup>th</sup> (the day of the meeting) (see 4.1 – 29.2 (b) (ii))

i.e. the ‘clear days’ would be: Wednesday (5<sup>th</sup>), Thursday, Friday, Monday and Tuesday (11<sup>th</sup>).

- (f) “within” or “no later than” in the context of a number of days of (after) an event is the maximum number of days after that event for compliance with the particular procedure rule and when calculating the deadline;
  - (i) the date of the event shall be excluded
  - (ii) the deadline specified shall be included

**Example:**

Notice to be given to the Executive Director (Resources) “within five days of [i.e. after] the meeting”

If the meeting takes place on Wednesday the deadline would be 4.30 pm on the following Wednesday.

Exclude:

- Wednesday (the day of the meeting) (see 4.1 – 29.2(f)(ii)),
- Saturday and Sunday (non-working days) (see 4.1 – 29.2 (e))

Include:

- Wednesday (the 5<sup>th</sup> day – the specified deadline)(see 4.1 – 29.2(f)(ii)) but only up to the end of normal working hours (see 4.1 – 29.1.3)

Where the day or the last day on which anything is required or permitted to be done is a



Sunday, day of the Christmas break, of the Easter break or of a bank holiday break or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days specified above [Section 243 of the Local Government Act 1972].

#### **4.1 – 30 AMENDMENT**

Any motion to add to, vary or revoke these Council Rules of Procedure may, providing it is on the agenda for the meeting and is the subject of an Officers' report, be considered by that meeting of the Council, but otherwise shall, when proposed stand adjourned without discussion to the next ordinary meeting of the Council.