

NON-CONFIDENTIAL



Borough of Tamworth

9 September 2014

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 16TH SEPTEMBER, 2014** at 6.00 pm in the , for the transaction of the following business:-

AGENDA

NON CONFIDENTIAL

1 Apologies for Absence

2 To receive the Minutes of the previous meeting (Pages 1 - 16)

3 Declarations of Interest

To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.

When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.

4 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive

5 Question Time:

- (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
- (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

6 Debate on Petition Against Closure of Our Golf Course

“Tamworth Borough Council have made the decision to close down our Golf Course in March 2015 and possibly build houses on the land. We as the residents of Tamworth wish to oppose this as we should retain the Golf Course which allows adults and children affordable access to the sport and all the natural beauty of this green land.”

7 Annual Report on the Treasury Management Service and Actual Prudential Indicators 2013/14 (To Follow)

(Report of the Portfolio Holder for Operations and Assets and Cabinet)

8 Policy in Relation to Councillors for an Alleged Breach of the Code of Conduct (Pages 17 - 34)

(Report of the Portfolio Holder for Operations and Assets)

9 The Openness of Local Government Bodies Regulations 2014 (Pages 35 - 54)

(Report of the Portfolio Holder for Operations and Assets)

Yours faithfully



CHIEF EXECUTIVE

People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail committees@tamworth.gov.uk preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.

Marmion House
Lichfield Street
Tamworth



**MINUTES OF A MEETING OF THE
COUNCIL
HELD ON 5th JUNE 2014**

PRESENT: Mayor 2013/14 J Garner, Councillors R Kingstone, M Gant, J Chesworth, M Clarke, S Claymore, T Clements, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, D Foster, J Goodall, M Greatorex, G Hiron, A James, J Jenkins, A Lunn, T Madge, M McDermid, K Norchi, J Oates, M Oates, S Peale, T Peale, R Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate Services), Jane Hackett (Solicitor to the Council and Monitoring Officer), Stefan Garner (Director of Finance), Ryan Keyte (Senior Legal Officer), Lara Allman (Democratic & Election Services Officer) and Linda Street (Democratic & Elections Officer)

1 APOLOGIES FOR ABSENCE

None

2 MAYOR'S CADET

Matthew Feenan was inaugurated as the Mayor's Cadet for 2014/15.

3 TO ELECT A MAYOR

Councillor R Kingstone was elected as Mayor and proposed a vote of thanks for Councillor John Garner's year as Mayor.

(Moved by Councillor A James and seconded by Councillor M Gant)

4 TO ELECT A DEPUTY MAYOR

Councillor M Gant was elected as Deputy Mayor.

(Moved by Councillor T Clements and seconded by Councillor A Lunn)

5 TO ELECT THE LEADER OF THE COUNCIL

Councillor D Cook was elected as Leader of the Council.

(Moved by Councillor S Claymore and seconded by Councillor M Greatorex)

6 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

7 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETINGS

The minutes of the meetings held on 18th March 2014 were approved, subject to amendments to the supplementary answers at Question Time, and signed as a correct record.

(Moved by Councillor D Cook and seconded by Councillor R Pritchard)

8 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE

Tributes were paid to the late Gerald Pinner.

Councillor J Oates

I've spent the last few days realising how privileged I am as I knew Gerry at his best. He looked after me and took me under his wing when I was first elected and we shared some fantastic times. I remember a leaflet drop in 2002, cutting across peoples' gardens and Gerry fell on his face after tripping over a wire fence. We had a chuckle and cracked on. We spent a lot of time chatting and he always had a story to tell. It's a shame a lot of people in the room have only known him since he's been ill. He was a fantastic chap. I feel guilty I've not spent more time with him. He's had a massive influence on me and he will be missed.

Councillor K Norchi

I'm very proud to say that Gerry and I became friends very quickly. We shared many a drink together at Bolehall Swifts. He was a great character. The night he was elected he wore a wonderful waistcoat and a bright tie. I was in Bulgaria and the phone rang. It was Gerry and he'd forgotten I was there, the call ended very quickly! On Friday 30 I had a phone call to say he was going into hospital. I feel very bad that I missed a call from his daughter on the Monday night. I feel very proud to have known the man and will miss him.

Councillor M Oates

I've known Gerry for over 30 years and had very few arguments with him. He was a great character and his loyalty was fantastic. One night I was at the flats canvassing and he told me 'you won't get many votes here', and he was right too! Let's celebrate his life, it's a privilege to have known and worked with him.

Councillor M Clarke

I can't claim to have been drinking with him! We had a hotspot for antisocial behaviour in Stonydelph and Gerry asked my husband if he could join me to sit with youngsters and just listen to them. He was a gentleman.

Councillor A James

I first met Gerry in 1996 when I first joined the Conservative Group. He had many words of advice; I listened to some of it, not all of it! I remember his bright waistcoats, he was a character. He ran the south side of the town with Ronnie Cook. He was a gentleman and will be missed.

9 QUESTION TIME:**QUESTIONS FROM MEMBERS OF THE COUNCIL NO.1**

Under Procedure Rule No 11, Councillor M Couchman asked the Leader of the Council, Councillor D Cook, the following question:-

"I understand that you have stated that there will be no provision for Social Housing as part of your proposed sale of the golf course. Is this correct?"

Councillor D Cook gave the following reply:

Yes.

Supplementary question:

On this side we remain committed to no additional housing development on the Golf Course, but if as it seems, you are determined to push ahead with housing, are you trying too late to appease some Amington residents?

Councillor D Cook gave the following reply:

No I'm not trying to appease anyone. There is a need for Social Housing and these will be built on old garage sites. We have to be realistic and there will be affordable housing on the site as we have to move with the market. We are committed to using assets so the people of Tamworth get the best we can give them.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.2

Under Procedure Rule No 11, Councillor M Couchman asked the Deputy Leader of the Council, Councillor R Pritchard, the following question:-

"Last year the Local Council Tax Reduction Scheme had to make a saving of £700,000. Can you tell us if the scheme has made a surplus or deficit and by how much?"

Councillor R Pritchard gave the following reply:

I can confirm that £5.38 million was the net amount paid out in 2012/13 for Council Tax Benefit. For 2013/14 under the new scheme it was £4.48 million which indicated a £200,000 surplus as the accounts were not closed.

Supplementary question:

Will you now look again at removing child maintenance payments from the scheme which last year affected 152 householders making them at least £250 worse off and only saved the Council £10,000 thereby no longer being the Tamworth Tories taxing toddlers?

Councillor R Pritchard gave the following reply:

The policy is reviewed every year and until we know the output for the year we won't know how much surplus there is, if any.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.3
Under Procedure Rule No 11, Councillor S People will ask the Leader of the Council, Councillor D Cook, the following question:-

"In the light of the recent Peer Review when will the controlling Conservative group agree to a scrutiny committee being chaired by a member of the opposition as is done elsewhere?"

Councillor D Cook gave the following reply:

Thank you Mr Mayor,

I am pleased Councillor People has raised last year's Peer Review in this Chamber. I wonder if he also noted the section that praised the Political leadership of this Council as being very strong.

If I understand the question correctly, Councillor People would like me to give the Labour group something that is quite simply not mine to give. I am entirely sure that nominating Scrutiny chairman is not within my gift as Leader of this authority. I am sure it is down to the 9 Members of the Committee. I would also refer Councillor People to his deputy, Councillor Faulkner, who requested of me in mid-2012 in one of the chambers that as Leader of the Council I stay away from interfering with the election of Scrutiny Chairmen or Scrutiny business. I shall indeed do so here.

However, again just referring to the Peer Review findings, I believe it recommended, not enforced, just recommended the idea of the Scrutiny Chairman and the Vice-Chairman being of opposing political parties. It did not recommend that the opposition should chair Scrutiny committees.

Supplementary question:

I am quite aware of what the Peer Review said. Rugby have a Chair from the opposition and they are a Conservative Council. I wondered how you would deal with the question from a new Leader. I refer to something that Councillor Faulkner has said in the past and ask you again to consider having a Chair from the

opposition. This would give quality scrutiny and be a positive way forward and I think all Councils should do it.

Councillor D Cook gave the following reply:

I rest on my first answer.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.4
Under Procedure Rule No 11, Councillor S People asked the Leader of the Council, Councillor D Cook, the following question:-

"With a number of major brown field sites still potentially available for development / subject to bids, why is the Leader of the Council so insistent upon selling off valuable green space in Amington?"

Councillor D Cook gave the following reply:

Thank you Mr Mayor.

I thank Councillor People for the opportunity AGAIN to demonstrate the "all talk no action" approach of his group. I really do hope he will fix that during his year of leadership.

Councillor People may recall about 15 months ago the Labour group asked for the members working group on the development of the Local Plan to be politically balanced, 3 Conservatives and 3 Labour Councillors. I agreed as this issue was too big for political football. The number of new houses needed in the Borough has never been a matter of disagreement between the Conservatives and Labour. We agree the figure; hence Councillor Faulkner has twice seconded the Local Plan developments through this Council in this period.

I am accepting where they go is now the matter of debate. If the Labour group feel the allocation should be away from the Golf Course, then maybe they should suggest where. Oh hang on..... At the Local Plan Sub-Group meeting held on 6th February 2014, a finalised list of proposed allocations to meet employment and housing needs was discussed with the Working Group. And the Labour Councillors displayed outrage that the Golf Course was a potential site, never mind the fact I had informed their leader and Councillor Chris Cooke as a meeting a month before. I love communication.

Noting their opposition, Councillor Claymore invited the Labour Group (Councillor Couchman and McDermid were present) to suggest any new sites that could be assessed instead of the golf course. Basically, can the Labour party suggest an alternative to our legal need? The full list of sites that were not coming forward as allocations was also presented. Yet here we are 4 months later and still no alternative has been offered. This has partly stalled the working group. Again, they are happy to make public sound bites, very little meat on the bones. I eagerly await their suggestions.

However, it is worth noting. The draft Local Plan proposes to allocate 19 brownfield sites for housing development, across the plan period these sites will bring forward approximately 399 new houses. There are 19 brownfield sites rejected through the process for many reasons, but most notably the owners of the land have absolutely no interest in housing going on this land. Last I understood we did not live in Stalinist Russia, it's difficult to make land owners do what they do not want to do.

The 19 sites not to be placed as potential sites in the Local plan would have a equated to another 369 new houses, I think we can agree this is a more than a little short of the 1,100 we require to meet the Local Plan.

Actually, Tamworth has a very high level of housing completions on brownfield sites. As of 31 March 2014 there have been 1,284 completions on brownfield sites. That represents 93% of all new housing since 2006– this is incredibly high. In 2013 – 2014 100% of new housing development was on brownfield sites. It is inevitable that in such a small borough as Tamworth which has seen exceptional levels of brownfield development over the past 8 years that the supply of brownfield sites will diminish and future development will need to look to more Greenfield sites.

It is also worth noting that the golf course is not green belt, in fact it was originally a colliery that was remediated. It is not that far off legally defined Brownfield. However, I fully accept locals to the site see this differently and do not begrudge them that.

If Councillor Peuple, as his question suggests, has other sites, not reviewed, that could come forward to meet our housing needs at the levels both parties have agreed, then I welcome their suggestions, even if 4 months later than offered. I suspect the Gungate site will be mentioned in the supplementary and I agree thus we are constantly reviewing, but the land is not owned by this Council and it would not even touch the required 1,100 required to balance the evidence base set out in the Local Plan.

Supplementary question:

I'm not sure why this year's leadership has surprised you and why you thought that Councillor M Couchman was odds on favourite to be Leader. You do not get to vote on the Labour Leader. Councillor Cook has demonstrated he is not fulfilling the leadership he claims. Why has Councillor Cook gone onto the Amington residents' website and refused to deal with them?

Councillor D Cook gave the following reply:

I have sat in 35 living rooms, met five different groups in the Gate Inn, I'll sit and talk to anyone. This displays the leadership needed. I am not impressed with the group being set up with help. I have not said that we will not consult with residents I have just said that we need to look at how we do it.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.5

Under Procedure Rule No 11, Councillor T Madge will ask the Leader of the Council, Councillor D Cook, the following question:-

"Do the council employ people on zero hour contracts and if they do, are they re considering this position in light of recent figures from the British chambers of commerce who have upgrading its GDP growth forecast from 2.8% to 3.1% for 2014 – the highest rate of growth since 2007.

By virtue of not guaranteeing a set number of hours of work for individuals, zero-hours contracts can create tremendous uncertainty for workers, particularly those with children who are more reliant on a stable income. Fluctuating earnings make even basic household budgeting difficult and can make planning for things like child care impossible"

Councillor D Cook gave the following reply:

Currently we have 2 staff members on zero hour's contracts. However, I have absolutely no intention of discussing individual staff members and their employment rights in a public forum, EVER.

Supplementary question:

I am not asking you to discuss individual members of staff. This is a matter of principle. A Select Committee looked at zero hour contracts and found them to show abusive, exploitative, sloppy and incompetent management. I worry that Tamworth Borough Council are using staff in this manner.

Councillor D Cook gave the following reply:

I hope you're not accusing staff of sloppy management? The two staff may be agency workers for all I know. I suggest you take this up with the MP as it is a legislation issue. I have no alternative solution at this time. It is something that needs reviewing at National Level.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.6

Under Procedure Rule No 11, Councillor C Cooke will ask the Leader of the Council, Councillor D Cook, the following question:-

"With the ever increasing complexity of benefits law I have recently noticed that benefit claims to the Council seem to be taking longer to deal with and claimants' paperwork is being held onto longer. I am concerned on the effect that this has on claimant's Council Tax and Housing Benefits arrears and the stress this causes to claimants. Will the Leader assure me that whilst such claims are being processed penalty fees, charges and eviction notices will not be issued until the benefits claim has been dealt with and then, if part or all of the claim is finally refused a claimant will be given reasonable time to either pay any arrears or to make an arrangement with the Council to do so?"

Councillor D Cook gave the following reply:

Thank you Mr Mayor,

Councillor Cooke, we have analysed the Covalent performance system, it reveals Benefits' average performance figure, month by month, over the last two years. You have suggested that there is a downward trend in processing times, which the statistics prove to be completely incorrect. I have the figures here if you wish to see them.

In regards to Council Tax benefit, whilst a customer will submit a claim in respect of Local Council Tax Reduction, we always ask that they pay as per their Council Tax bill where possible pending the outcome of their claim. Council Tax law clearly states that the submission of a claim does not mean a person should withhold payment. In many cases receiving no or little discount will mean they are accumulating arrears. Therefore we do not advise that they adopt that approach.

However in certain circumstances if it is clear that the customer will be entitled to full Local Council Tax Reduction we ensure that the case is put on hold for a short period to allow the Benefits Team to process it.

In regards to Council tenants' rents, no repossession proceedings will be taken against a council tenant where all the information required to assess the housing benefit claim has been supplied. If a tenant continually fails to provide information requested possession proceeding will only then commence. If the case is cancelled or the information is not forthcoming court action will be taken and a suspended possession is likely to be sought if there is no guarantee that housing benefit will be paid.

Tenants can often put a claim in for housing benefit days before a court hearing. The judges will not agree to an eviction warrant if there is evidence suggests that there is a valid claim in and the tenant is doing all they can to provide the necessary information. The judges will adjourn the case to allow for the claim to be processed. If the tenant fails to engage with the housing benefit team then at the adjourned hearing the judge is likely to agree to the eviction warrant. The judge will decide if the tenant has to pay the court costs.

I believe this organisation, corporately, works hard and fairly for those in our society who need us.

Supplementary question:

My concerns about resident's stress levels also apply to Tamworth Council's own staff. Can the portfolio holder tell me how stress to our staff is monitored and what policies are in place to reduce workplace stress particularly within the benefits section where officers must often deal with residents who themselves are very limited in their grasp of the benefits law and often very anxious and upset when things appear to be going wrong?

Chief Executive gave the following reply:

We have Human Resources processes to support staff, not just in housing benefits. All staff are involved in regular performance and progress meetings with managers. Staff are encouraged to express their views and impacts on their ability to perform. There are a number of support mechanisms available including Counselling or they can be referred to an independent occupational health therapist. If I was to criticise the process it would be that we rely on individuals coming forward. We are looking at new mechanisms.

The Chief Executive agreed to forward details of support offered/ provided to front line staff.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.7
Under Procedure Rule No 11, Councillor C Cooke asked the Leader of the Opposition, Councillor S People, the following question:-

"Given the change in leadership in the local Labour group can the Labour leader advise me if his local party's policy towards Tamworth Golf Course will change?"

Councillor S People gave the following reply:

I can advise that there is no change in policy.

Supplementary question:

Will the Leader of the Main Opposition group join with our Independence group to gain the minimum five signatures necessary to debate the issue on a Full Council agenda? Or would he prefer to get those signatures from amongst his own group membership?

Councillor S People gave the following reply:

I am amused that Councillor Cooke sees fit for me to join him as Leader of the main opposition group. There is only one leader of the opposition and that is I.

I don't see the need to dance to Councillor Cooke's tune. We had a debate and the controlling group voted for the budget and the opposition group did not. I will not decide my approach based on Councillor Cooke's agenda nor will I change my campaign. We would not support development on the golf course. I've only ever stood for the Labour Party and not any other party and in answer to your question I have spoken to and stood with people and with enormous honour made a pledge, along with Councillor Tom People, that we are opposed to development.

Following Thomas People being voted in as Councillor I could not be prouder. I want to thank the NHS as 24 years ago he would of died if not for the skill of the surgeons. Thank you to all at Rawlett School who have helped make me very proud.

The people of Amington should be under no illusion, we won't change our position.

10 APPOINTMENT OF CABINET AND ALLOCATION OF RESPONSIBILITIES

The membership of Cabinet for 2014/15 was received and circulated at the meeting as follows:

Leader of the Council Cllr Daniel Cook	Operations and Assets Cllr Rob Pritchard (Deputy leader)
Portfolio	Portfolio
Corporate Assessments	Corporate Finance & procurement
Engagement Overview	Audit & Governance
Financial Planning	Service Transformation
Performance Management	HR and ICT
Member Development	Corporate/HRA commercial Property & Asset Management
Strategic Overview	Constitution
Strategic Partnerships	Treasury Management
Budget Consultation	Revenues & Benefits
Participatory Budgeting	Legal and Democratic Services
Tamworth Listens	PR and Coms Management (TBC & HRA)
Reputation	Corporate Consultation
Organisational Capacity	Graphics & Publications
	Car Parks
	Civil Parking Enforcement
	Customer Services
	Council Tax and NNDR
	Tourism
	Place Steering Group
	Outdoor Events
Community Development and Voluntary Sector Cllr Stephen Doyle	Economy and Education Cllr Steve Claymore
Portfolio	Portfolio
Safer & Stronger Communities	Town Centre Development
Community Safety, ASB Reduction & Crime	Town Centre Economy / Cultural Qtr
Tackling Fear of Crime	Education / Educational Attainment
Integrated Enforcement	Career Skills and Training
CCTV Management	Business Liaison
Community Development	Business Development
Locality Working	Development Management
Services for Young People	Building Control
Youth Council	Market Development
Police and Crime Commissioner Panel	Local Plan
Third Sector Engagement	Southern Staffordshire Partnership (SSP)
Voluntary Sector Engagement and Funding	LEP Board Member

Community Sports Activities	Infrastructure / Transport / LTB
Half Term / Summer Holiday Activities	Planning
Leisure Services & Sport	Decent & Affordable Housing Development
GP Commissioning / PCT Engagement	Gateways Project
Healthier Communities / Lifestyles	Heritage Conservation
Environment & Waste Management	Public Housing and Vulnerable People
Cllr Michelle Thurgood	Cllr Michael Greatorex
Portfolio	Portfolio
Strategic Waste Management	Strategic Housing
Refuse Collection	Homelessness Prevention
Recycling Services	Housing Advice
Waste Minimisation	Landlord Services
Environmental Health	Private Sector Housing
Community Health & Safety	Child Protection
Corporate Health and Safety	Safeguarding Children
Licensing	Vulnerable Adults
Streetscene	Neighbourhood Renewal
Tamworth in Bloom Operations	Healthier Housing
Clean Streets Enforcements	Public Sector Garages
Street Furniture Maintenance	HRA Business Planning
Parks and Play	HRA Consultation
Nature Reserves	Tenant Engagement
Street Wardens	Decent Homes Standard
Integrated Enforcement	

The Leader of the Council paid tribute to Councillor Jeremy Oates as former Leader and former Cabinet Member and thanked him for his work in these roles.

11 APPOINTMENT OF COMMITTEES

The constitution and membership of Committees for 2014/15 was received and circulated at the meeting as follows:

CONSTITUTION OF COMMITTEES 2013/14

CABINET

Councillors	Danny Cook	Leader with Portfolio
	Robert Pritchard	Deputy Leader/Operations & Assets Portfolio
	Michelle Thurgood	Environment & Waste Management Portfolio
	Stephen Doyle	Community Development & Voluntary Sector
Portfolio	Steven Claymore	Economy & Education Portfolio
	Michael Greatorex	Public Housing & Vulnerable People Portfolio

ASPIRE & PROSPER SCRUTINY COMMITTEE

Councillors Tina Clements
Garry Hirons
Joy Goodall
Andrew James
Matthew McDermid
Tony Madge
Jeremy Oates
Michael Oates
Patrick Standen

HEALTHIER & SAFER SCRUTINY COMMITTEE

Councillors John Chesworth
Marion Couchman
John Faulkner
Andrew James
Joan Jenkins
Allan Lunn
Michael Oates
Tom People
Evelyn Rowe

PLANNING COMMITTEE

Councillors John Chesworth
Steven Claymore
Margaret Clarke
Chris Cooke
Marion Couchman
Michael Greatorex
Ken Norchi
Jeremy Oates
Michael Oates
Tom People
Evelyn Rowe
Patrick Standen
Michelle Thurgood

AUDIT & GOVERNANCE COMMITTEE

Councillors John Chesworth
Marion Couchman
John Faulkner
Maureen Gant
Richard Kingstone
Jeremy Oates
Peter Seekings

LICENSING COMMITTEE

Councillors Margaret Clarke
 Tina Clements
 Danny Cook
 Stephen Doyle
 Maureen Gant
 Joy Goodall
 Garry Hirons
 Andrew James
 Joan Jenkins
 Allan Lunn
 Matthew McDermid
 Tom Peaple
 Peter Seekings

APPOINTMENTS AND STAFFING COMMITTEE

Councillors Danny Cook
 Chris Cooke
 Michael Greatorex
 Simon Peaple
 Robert Pritchard

NOMINATIONS COMMITTEE

Councillors Margaret Clarke
 Tina Clements
 Joy Goodall
 Tony Madge
 Evelyn Rowe

CHIEF OFFICER CONDUCT COMMITTEE

Councillors David Foster
 Joan Jenkins
 Richard Kingstone
 Allan Lunn
 Simon Peaple

CABINET (GRANTS) SUB COMMITTEE

Councillors Steven Claymore
 Stephen Doyle
 Robert Pritchard

12 THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) REGULATIONS 2012

The Report of the Leader of the Council seeking to advise Members of the particulars of each urgent executive decision and a summary of the matters in respect of which the decision was made under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 Regulation 19 was considered.

RESOLVED: That the Annual Executive Arrangements report be endorsed.

(Moved by Councillor D Cook and seconded by Councillor R Pritchard)

13 REVIEW OF THE CONSTITUTION AND SCHEME OF DELEGATION

The Report of the Leader of the Council and Solicitor to the Council and Monitoring Officer seeking to obtain Council comments, endorsement and approval of the reviewed Constitution and Scheme of Delegation was considered.

RESOLVED: That Council:

- 1 Endorsed the changes to the reviewed Constitution and Scheme of Delegation;
- 2 Adopted and approved the changes as presented, and;
- 3 Referred the reviewed Constitution and Scheme of Delegation to Audit and Governance Committee for consideration and overview.

(Moved by Councillor R Pritchard and seconded by Councillor D Cook)

14 REGULATION OF MEMBERS' CONDUCT

The Report of the Solicitor to the Council and Monitoring Officer advising Members on the number of complaints received for the period 01 May 2013 until 30 April 2014 in relation to alleged breaches of the Code of Conduct arising from implementation of Part 1 Chapter 7 of the Localism Act 2011 which introduced provisions to assist with the regulation of standards of conduct for elected and co-opted Councillors was considered.

Resolved: That Council endorsed the findings and content of the report.

(Moved by Councillor D Cook and seconded by Councillor M Clarke)

15 CALENDAR OF MEETINGS

The Calendar of Meetings for 2014/15 was received and circulated at the meeting.

Resolved: That this Council accept the calendar of meetings 2014/2015

(Moved by Councillor D Cook seconded by Councillor R Pritchard)

16 FEES AND CHARGES POLICY

The Report of the Portfolio Holder for Operations and Assets seeking approval from Council to adopt the Fees and Charges Policy as part of the Council's Financial Regulations was considered.

Resolved: That Council:

1. Approved the Fees and Charges Policy for adoption within the Council's Financial regulations, and;
2. Agreed the request for Heads of Service to review the basis of the Fees and Charges within their service area as part of the Sustainability Strategy Service Review process and identify whether service provision is subsidised, part subsidised or full cost recovery and consider opportunities to revise fees and charges as appropriate.

(Moved by Councillor R Pritchard and seconded by Councillor D Cook)

EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That members of the press and public be now excluded from the meeting during consideration of the following item on the grounds that the business involves the likely disclosure of exempt information as defined in Paragraph 1, of Part 1 to Schedule 12A to the Local Government Act 1972 (as amended).

17 LOCALISM ACT 2011 INDEPENDENT PERSON

The Report of the Solicitor of the Council and Monitoring Officer providing the outcome of the discussions between the Leader and the selection panel following Council on 18 March 2014 was considered. Three members of Audit and Governance Committee formed a panel and interviewed applicants for the position and appointment of an Independent Person and a reserve Independent Person in terms of the Localism Act 2011. The appointments require recommendation from Council. The report also advises of the allowances and expenses for the Independent Person role.

RESOLVED: That Council:

1. Agreed to endorse the appointment of Mr Paul Darby and Mr Stanley Orton as Independent Person(s) from 5 June 2014 for a period of 2 years;
2. Agreed that following the period of said appointments, the posts will be subject to re-application and open competition, and;
3. Noted the allowance and expenses set for the Independent Persons at the rates indicated in the report.

(Moved by Councillor M Gant seconded by Councillor S Peuple)

The Mayor

TUESDAY, 16 SEPTEMBER 2014

REPORT OF THE PORTFOLIO HOLDER FOR OPERATIONS AND ASSETS

REVISED ARRANGMENTS FOR DEALING WITH COMPLAINTS IN RELATION TO MEMBERS FOR AN ALLEGED BREACH OF THE CODE OF CONDUCT

EXEMPT INFORMATION

None

PURPOSE

The Localism Act 2011 made fundamental changes to the system of regulation of Standards of Conduct for Members. This report provides revised arrangements for dealing with complaints in relation to Members for an alleged breach of the Code of Conduct.

RECOMMENDATIONS

That Council

1. **adopt the revised arrangements for dealing with complaints in relation to Members for an alleged breach of the Code of Conduct as attached at Annex 1 in terms of Section 28(6) of the Localism Act 2011;**
2. **thereafter publish the revised arrangements as operable forthwith for handling alleged breaches of the Code of Conduct in relation to Members and**
3. **submit the adopted revised arrangements to the next Audit & Governance Committee meeting for discussion and endorsement.**

EXECUTIVE SUMMARY

The Council is committed to high standards of Ethical and Corporate Governance which underpin the accountability and transparency of the leadership and direction of the Authority. The current arrangements were put in place in 2012. In line with Corporate guidelines policies require to be reviewed to ensure that they remain fit for purpose. The revised arrangements as contained in **Annex 1** set out in detail how the Authority will respond, process, investigate and resolve a complaint. The process is easy to follow and will provide a better experience and service for all users and make the arrangements for dealing with complaints against Members more inclusive and accessible to all sections of our community.

OPTIONS CONSIDERED

1. Do nothing to current policy;
2. Partly review current policy;
3. Conduct a full review of current policy.

It was clear that option 3 was the best option and most useful in terms of providing clear and concise processes to deal with Member issues and at the same time making the administration thereof more user friendly for all involved thus a full review has been implemented and carried out.

RESOURCE IMPLICATIONS

There are currently no additional resources to deal with any alleged breaches of the Code of Conduct. Any issues that may arise are managed by the Solicitor to the Council and Monitoring Officer within her allocated budget however additional resource could be required should an investigation be necessitated.

LEGAL/RISK IMPLICATIONS BACKGROUND

To have a policy that is not user friendly nor easy to operate poses issues for all and any parties involved in a Code of Conduct issue. A policy difficult to understand and operate can put a complainant off from raising an issue and at the same time may not offer the protection required to a defendant. This in turn could lead to a legal challenge and potentially judicial review. A more user friendly and coherent policy reduces this risk to the organisation.

SUSTAINABILITY IMPLICATIONS

It is essential that the Authority operates in a manner that is open, transparent, inclusive and embodies good governance. By adopting and operating these revised arrangements to deal with alleged breaches of the Code of Conduct the Authority is providing a framework that is accessible, user friendly and written in plain English.

BACKGROUND INFORMATION

In 2011 the Localism Act imposed a new Code of Conduct for Members and required new arrangements to be put in place to deal with complaints regarding members who allegedly breach the new Code of Conduct. Notwithstanding this new Code and arrangements the Authority remained under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. That duty still exists and it is therefore the duty of the Council to ensure that robust arrangements exist to direct and control Members' accountability in engaging and leading their Communities.

The Council strives to meet the highest standards of corporate governance to help make sure it meets its objectives. Members are responsible for putting in place proper arrangements for the governance of the Council affairs and the stewardship of the resources at its disposal. Governance forms part of the Council's commitment to customer excellence which underpins the Council's Strategic Plan and Vision. The revised arrangements ensure that the obligations incumbent on the Authority and its Members are fulfilled.

REPORT AUTHOR

Jane M Hackett, Solicitor to the Council & Monitoring Officer TEL: 709258

LIST OF BACKGROUND PAPERS

Localism Act 2011

Arrangements adopted by Council on 19 June 2012 for dealing with complaints regarding Members

APPENDICES

ANNEX 1: Arrangements for Dealing with Members for an alleged breach of the Code of Conduct

Procedure for making Complaints against a Councillor for an Alleged Breach of the Code of Conduct

1. Introduction and Context

- 1.1 These procedures set out how you may make a complaint that an elected or co-opted member of this Council has failed to comply with the Members' Code of Conduct. The procedures set out how the Council will deal with any allegations of a failure to comply with the Members' Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the Council or of a Committee or Sub-Committee of the Council, has failed to comply with their Code of Conduct, can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation has been made.

2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Members, which is available for inspection on the Council's website - www.tamworth.gov.uk and on request from Democratic Services at Marmion House, Lichfield Street, Tamworth, B79 7BZ.

3. Making a Complaint

- 3.1 If you wish to make a complaint, please write to:

The Monitoring Officer, Marmion House, Lichfield Street, Tamworth, B79 7BZ and a Member Complaint form will be sent to you. Alternatively, you may download a Word version of the form from this page on Council's website: **Insert link XXX**

You may either return the form by post to the Monitoring Officer

or email it to jane-hackett@tamworth.gov.uk.

- 3.2 The Monitoring Officer is the senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of Member misconduct. In the Monitoring Officer's absence the Deputy Monitoring Officer has the same powers and responsibilities for the purposes of these procedures.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form. If you need help in completing the form please contact Legal and Democratic Services on tel: 01827 709264.
- 3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. Only in exceptional circumstances will your address be kept confidential. Therefore it is important that you give clear reasons for your request for confidentiality. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
- 3.5 The Council does not normally investigate anonymous complaints, unless there is clear evidence of a potential breach of the Code and it is in the public interest to investigate the matter.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it. We will keep you informed of the progress of your complaint at the appropriate stages.
- 3.7 The Complaints Procedure Flowchart is annexed at **Appendix 1** for your assistance.

4. Will your Complaint be Investigated?

- 4.1 If the complaint is from one Member against another Member or from an Officer of the Council against a Member, then the Monitoring Officer will seek to resolve the issue without resorting to this complaints procedure. The Monitoring Officer will seek a mutually agreed outcome in such circumstances and if this is not possible then the procedure set out below will be followed.
- 4.2 The Monitoring Officer will review every complaint received from

a Member of the public and may consult with the Independent Person before taking a decision as to whether it:

- a) Merits no further investigation
- b) Merits further investigation
- c) Should be referred to Audit & Governance Committee

- 4.3 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at **Appendix 2**. Where the Monitoring Officer has taken a decision, she will inform you of her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, she may come back to you for such information, and may request information from the member against whom your complaint is directed.
- 4.4 If your complaint identifies criminal conduct or breach of other regulation by a member, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5. How is the Investigation Conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as **Appendix 3** to these arrangements.
- 5.2 If the Monitoring Officer decides that a complaint merits further investigation, she may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, ask the member to provide his/her explanation of events and identify what documents he/needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the Member until the investigation has progressed sufficiently.
- 5.4 At the end of his/her investigation, the Investigating Officer or

Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider require more consideration.

5.5 Having received and taken account of any comments which you may make, the draft Investigation Report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.

6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer’s report and, if she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the Member concerned notifying you that she is satisfied that no further action is required, and give you both a copy of the Final Investigation Report.

6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and will then either send the matter for a hearing before the Committee or, in consultation with the Independent Person, seek an informal resolution.

a) Informal Resolution

7.2 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit & Governance Committee for information, and no further action will be taken.

b) Hearing

- 7.3 If the Monitoring Officer considers that informal resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will present the Investigation Report to the Hearing Sub-Committee which will conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
- 7.4 The Council has agreed a procedure for hearing complaints, which is attached as **Appendix 4** to these arrangements.
- 7.5 At the hearing, the Investigating Officer or the Monitoring Officer will present their report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
- 7.6 The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint.
- 7.7 If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.
- 8. What action can the Hearing Sub-Committee take where a Member has failed to comply with the Code of Conduct?**
- 8.1 The Hearing Sub-Committee has been delegated by the Council such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct.
Accordingly the Sub-Committee may:

- a) Publish its findings in respect of the member's conduct.
- b) Report its findings to Council for information.
- c) Recommend to Council that the member be issued with a formal censure or be reprimanded.
- d) Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council.
- e) Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities. Recommend to Council that the Member be replaced as Executive Leader.
- f) Instruct the Monitoring Officer to arrange training for the member.
- g) Remove the member from all outside appointments to which he/she has been appointed or nominated by the Council.
- h) Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and internet access.
- i) Exclude the Member for up to a maximum of six months from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

8.2 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

9. What happens at the end of the Hearing?

- 9.1 At the end of the hearing, the Chair will state the decision of the Audit & Governance Sub-Committee as to whether the member failed to comply with the Code of Conduct and any actions which the Sub-Committee resolves to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the Member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Assembly (Council).

10. Who are the Hearing Sub-Committee Members?

- 10.1 It is a Sub-Committee comprising Councillors sitting on the Authority's Hearing Committee.
- 10.2 It will comprise of three elected members appointed from Members of the Hearing Committee who will have been drawn from all political groups.
- 10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who is the Independent Person?

- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, whose appointment will be ratified by the Council.
- 11.2 A person cannot be "independent" if he/she:
 - a) is, or has been within the past 5 years, a Member, co-opted Member or Officer of the Authority;
 - b) is a relative or close friend, of the complainant or the Member(s) against whom the complaint has been made.
- 11.3 For the above purpose "relative" means:-
 - 11.3.1 Spouse or civil partner
 - 11.3.2 Living with the other person as husband or wife or as if they were civil partners
 - 11.3.3 Grandparent of the other person
 - 11.3.4 A lineal descendent of a grandparent of the other person
 - 11.3.5 A parent, sibling or a child of a person within paragraphs 11.3.1 or 11.3.2
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 or
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners

12. Revision of these Arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter, the details of which can be found on the Council's website.

13. Appeals

13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.

13.2 If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman whose details are as follows:

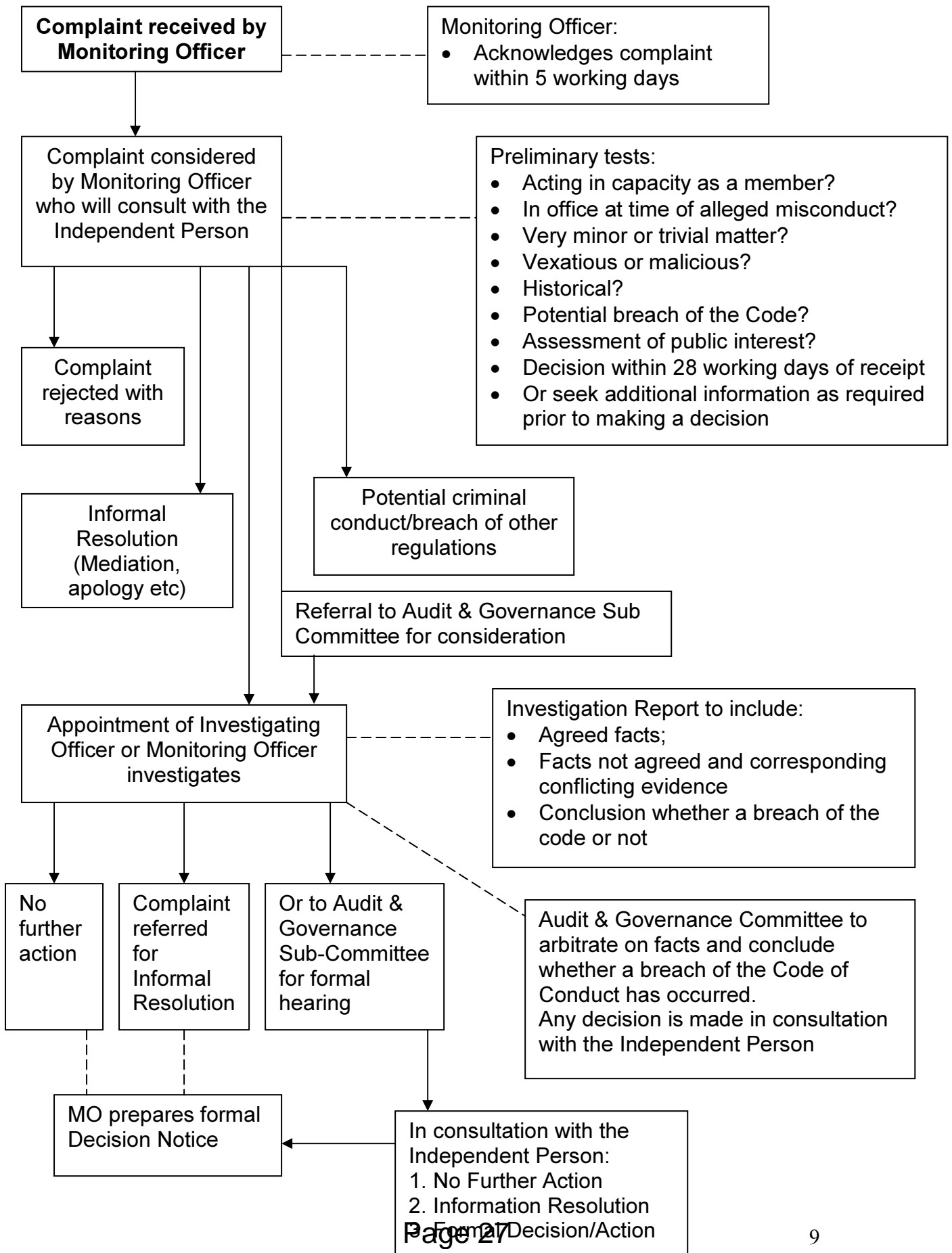
www.lgo.gov.uk

Local Government Ombudsman, PO Box 4771,
Coventry, CV4 0EH

Tele: Advice Team – 0300 061 0614

Text to 'call back' 0762 480 3014

COMPLAINTS PROCEDURE FLOWCHART



COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the member’s private life or is about dissatisfaction with a Council decision or service; or
5. It is about someone who is no longer a member of the Council; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct, unless there are exceptional circumstances, e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Hearing Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Standards Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting

the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

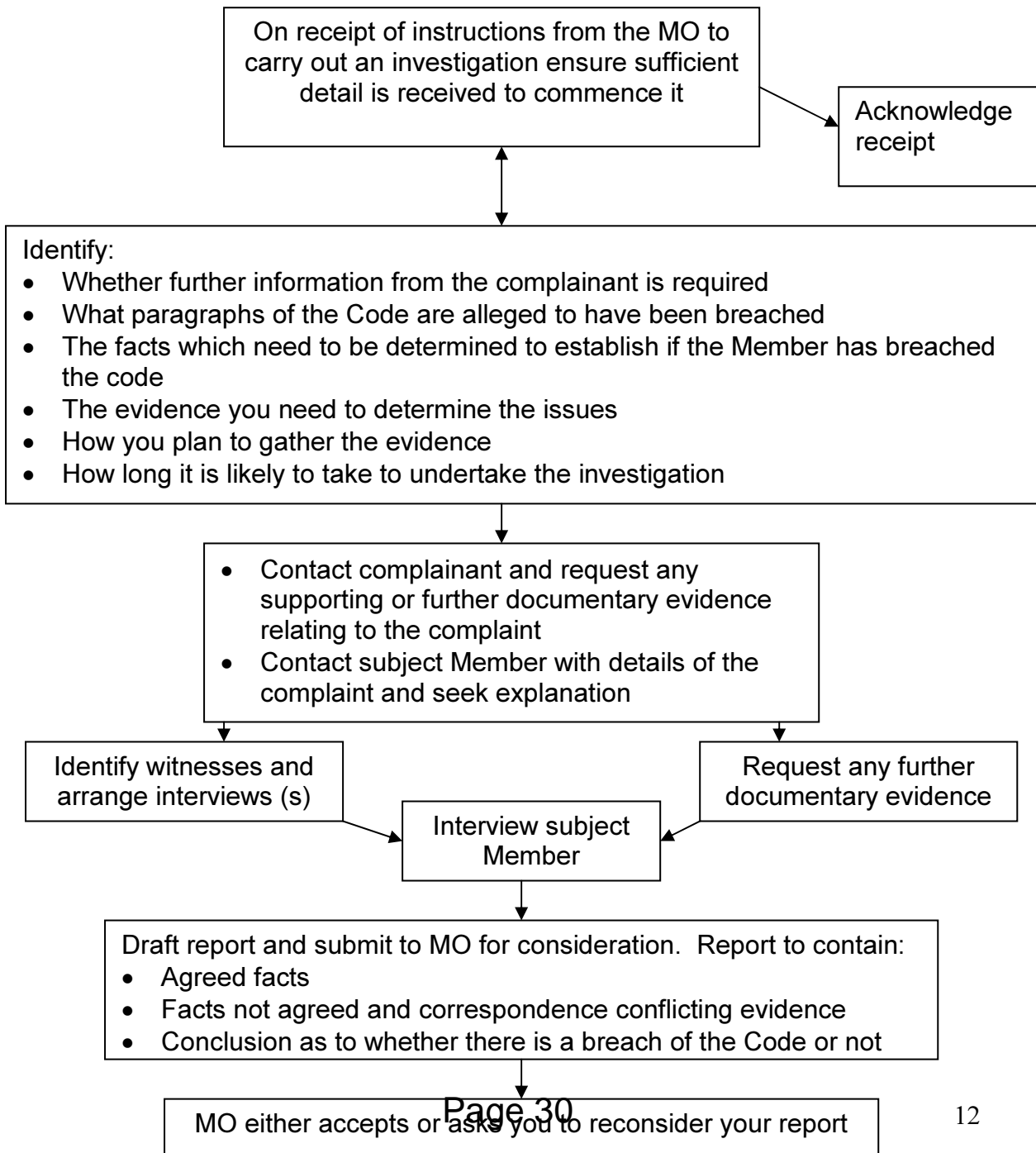
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high profile member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers would not be appropriate for him/her to investigate.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

COMPLAINTS INVESTIGATION PROCEDURE

You should maintain a written record to demonstrate what was considered at the start of the investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council’s Monitoring Officer (MO).



Complaints Sub-Committee Procedure

<u>Item No</u>	<u>Procedure</u>
1	<p style="text-align: center;"><u>Quorum</u></p> <p>1.1 Three Members must be present throughout the hearing to form a quorum</p> <p>1.2 The Sub-Committee shall nominate a Chair for the meeting</p>
2	<p style="text-align: center;"><u>Opening</u></p> <p>2.1 The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc</p> <p>2.2 The Chair asks all present to introduce themselves</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position</p>
3	<p style="text-align: center;"><u>The Complaint</u></p> <p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigator's report and not to make a statement)</p> <p>3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer.</p>

4	<p style="text-align: center;"><u>The Councillor's Case</u></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses.</p>
5	<p style="text-align: center;"><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the complaint.</p> <p>5.2 The Member (or their representative) may sum up their case</p>
6	<p style="text-align: center;"><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate to consider the complaint in consultation with the Independent Person prior to reaching a decision.</p> <p>6.2 Upon the Sub-Committee's return the Chair will announce the Sub-Committee's decision in the following terms:-</p> <p style="padding-left: 40px;">6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p style="padding-left: 40px;">6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p style="padding-left: 40px;">6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Member as to:</p> <p style="padding-left: 40px;">6.3.1 whether any action should be taken, and</p> <p style="padding-left: 40px;">6.3.2 what form any action should take</p>

	<p>6.4 The Sub-Committee will then deliberate to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chair will announce the Sub-Committee's decision</p> <p>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council with a view to promoting high standards of conduct among Members</p> <p>6.7 The Chair will confirm that a full written decision shall be issued within seven working days following the hearing and that the Sub-Committee's findings will be published.</p>
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COUNCIL

TUESDAY, 16 SEPTEMBER 2014

REPORT OF THE SOLICITOR TO THE COUNCIL & MONITORING OFFICER

THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

EXEMPT INFORMATION

None

PURPOSE OF THE REPORT

To advise Council of the implications and updates required to the Constitution following the Openness of Local Government Bodies Regulations 2014 having come into force on 6 August 2014. This report seeks approval of the Council to the changes required to the Constitution as a result.

RECOMMENDATIONS

That Council

1. endorse the report and
2. approve the changes to the Constitution at Appendix 1
3. approve the changes to the Constitution at Appendix 2

EXECUTIVE SUMMARY

The Monitoring Officer is required to monitor and review the operation of the Constitution to ensure that the aims and principles thereof are given full effect. The Council is required to review the Constitution regularly and when appropriate update in accordance with legislative requirements.

As a result of the Openness of Local Government Bodies Regulations 2014 coming onto the statute books, significant changes need to be made to the Constitution to meet the requirements of the legislation which must be approved to ensure that effect is being given to the regulations, a summary of which is provided below.

The Regulations, which came into force on 6 August 2014, allow reporting at meetings which are open to the public, be it the Council, Cabinet, Committee or Sub Committee meetings where the public are not excluded. The Regulations do not require a Council to permit oral reporting or commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting. This is to prevent the business of the meeting being disrupted.

Any person attending a meeting must, so far as is practicable, be afforded reasonable facilities for reporting and may use any communication method, including the Internet, to publish, post or otherwise share the results of their reporting activities. Publication and dissemination may take place in the meeting or afterwards. Reporting means:-

- filming, photographing or making an audio recording of proceedings at a meeting;
- using any other means for enabling a person who is not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

The Regulations also make provision for the recording of decisions made by Officers.

Decisions made by Officers are not limited to those made under Delegation by the Executive and must be recorded, whether made by an officer or on behalf of another Committee/Subcommittee or Joint Committee in which the Authority participates, where the decision has been delegated to an officer either under a specific delegation or under a general authorisation, and the effect of the decision is to:

- grant a permission or licence;
- affect the rights of an individual;
- award a contract or incur expenditure which in either case, materially affects a relevant Local Government Body's financial position.

Background papers are to be made available to the public as soon as reasonably practicable after the decision is made, at all reasonable hours at the offices, on the website and by such other means the Council considers appropriate. The Regulations also contain obligations to provide copies subject to the payment of postage, copying or other necessary charges for transmission. If a request is appropriately made, a copy of the written record and any background papers must be provided.

Written records must be retained and available for inspection for six years with background papers being retained for four years.

The provisions relating to the provision of decisions do not affect confidential or exempt information.

Anyone who has custody of a document which is required to be produced and, without reasonable excuse, intentionally obstructs or refuses access, commits an offence.

In relation to the requirements in the Regulations to allow reporting, the Council Constitution currently does not permit recording of its meetings. The Regulations require that the constitutional provision needs to be amended, and persons attending meetings with the intention of reporting on them, must be afforded reasonable facilities for doing so. There is no definition provided as to the definition of reasonable facilities. However the guidelines available to the public indicate that we must provide space to view and hear the meeting, seats and ideally a desk. We currently provide adequate facilities of this nature thus there is no additional burden placed on the authority in this regard.

With these factors in mind it is proposed that the arrangements should be as follows:-

- That persons attending any meeting should remain seated;
- That, in order to avoid accidents, it will not be possible for persons attending any meeting to use electric sockets for their equipment;
- That persons attending any meeting be reminded that they cannot carry out oral reporting during the meeting or disrupt the meeting in any way.

It is therefore proposed that a new paragraph 4.22 (page 129) and a new paragraph 14 (page 137) are inserted in the Constitution at Part 4 Council Procedure Rules and Schedule 1- Non Regulatory Committee Procedure Rules respectively as set out in **Appendix 1** to this report are approved.

In relation to decision records, the Monitoring Officer oversees the process of publicising all Decisions including Officer Delegated Decisions with reports on the website. Accordingly the Council is compliant in this regard. However in order to publish the process followed and to ensure that Access to Information Procedure Rules are up to date, Schedule 2 has been reproduced with tracked changes for approval as set out in **Appendix 2** to this report.

OPTIONS CONSIDERED

In relation to the regulations the only option is to implement as required by law. However the Council has already implemented the reporting of officer decisions on the web site through Mod.Gov so this requirement was already being met.

The only other option is to decide which platform to use to record meetings. This does not mean that there is a legal requirement for the Council to webcast its public meetings but it does mean that steps should be taken to at least make recordings of what is being said at meetings. This is particularly important as it will be possible for a recorded meeting to be edited which in turn could result in a misquote or inaccurate information being made available on a social media website.

At present we believe that we have a facility to record sound on DVDs in the Chamber and in Committee Room 1. There are no recording facilities at the Town Hall. To this end sound recording of meetings will commence using the current facility to test its adequacy. Running alongside this activity the Director Technology and Corporate Programmes will investigate the methods available to record meetings, the cost in relation to each, and report to Cabinet at a later date the findings of this exercise along with recommendations for approval.

RESOURCE IMPLICATIONS

Additional resource will require to be found to implement a reasonable method of recording meetings and to install a facility at the Town Hall. At this stage until a report on the cost is available it is not known what this could amount to, however cost will be dictated by the recording equipment chosen.

LEGAL/RISK IMPLICATIONS BACKGROUND

Any legal risk would arise from non implementation of the regulations and thereafter the interpretation thereof as implemented by the Council.

SUSTAINABILITY IMPLICATIONS

It is imperative that the Council operates in a manner that is open, transparent, inclusive and embodies good governance by endorsing and operating a system to enable member of the public to attend, record and report meetings of the Council.

BACKGROUND INFORMATION

On the 6 August 2014, The Openness of Local Government Bodies Regulations 2014 came into force. DCLG consider that the rules will make Councils more transparent and accountable to their local communities.

REPORT AUTHOR

Jane Marie Hackett, Solicitor to the Council & Monitoring Officer Tel:709258

LIST OF BACKGROUND PAPERS

The Public Bodies (Admission to Meetings) Act 1960

The Local Government Act 1972

The Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012

The Openness of Local Government Bodies Regulations 2014

DCLG Guide entitled Open and Accountable Local Government

APPENDICES

Appendix 1 Proposed changes to Part 4 Rules of Procedure, Council Procedure Rules and Part 4 Schedule 1 Non-Regulatory Committee Procedure Rules to comply with Members of the Public Reporting of Meetings Requirement.

Appendix 2 Proposed Schedule 2 Access to Information Procedure Rules

Proposed changes to Part 4 Rules of Procedure, Council Procedure Rules and Part 4 Schedule 1 Non-Regulatory Committee Procedure Rules to comply with Members of the Public Reporting of Meetings requirement

1. Insert a new paragraph 4.22 as follows:

4.22 Reporting of Meetings

- 4.22.1** Meetings may be recorded on behalf of the Council.
- 4.22.2** Whilst a meeting of the Council is open to the public, any person attending is to be permitted to report on the meeting. However, oral reporting or oral commentary on a meeting as it takes place is not permitted if the person reporting or providing the commentary is present at the meeting.
- 4.22.3** The Council will afford reasonable facilities to a person attending a meeting of the Council for the purpose of reporting on the meeting to enable them to do so.
- 4.22.3.1** A person wishing to report on a meeting should advise Democratic Services on 01827 709264 or democraticservices@tamworth.gov.uk by 5pm no later than 2 clear working days before the day of the meeting that they wish to report on the meeting and how they wish to do so.
- 4.22.3.2** Members of the public and press will require to remain seated throughout the meeting.
- 4.22.3.3** The Council is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.
- 4.22.4** Any person who attends a meeting of the Council for the purpose of reporting on the meeting may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.
- 4.22.5** Publication and dissemination may take place at the time of the meeting or occur after the meeting.
- 4.22.6** For the purpose of this paragraph 'reporting' means:
 - 4.22.6.1** filming, photographing or making an audio recording of proceedings at a meeting;
 - 4.22.6.2** using other means for enabling persons not present to see or hear

proceedings at a meeting as it takes place or later; or

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

2. Renumber Paragraphs 4.22; 4.23 and 4.24 to read 4.23; 4.24 and 4.25 accordingly.

3. In schedule 1 add a new paragraph 14 as follows:

14. Reporting of Meetings

14.1 Meetings may be recorded on behalf of the Council.

14.2 While a meeting of the Council is open to the public, any person attending is to be permitted to report on the meeting. However, oral reporting or oral commentary on a meeting as it takes place is not permitted if the person reporting or providing the commentary is present at the meeting.

14.3 The Council will afford reasonable facilities to a person attending a meeting of the Council for the purpose of reporting on the meeting to enable them to do so.

14.3.1 A person wishing to report on a meeting should advise Democratic Services on 01827 709264 or democraticservices@tamworth.gov.uk by 5pm no later than 2 clear working days before the day of the meeting that they wish to report on the meeting and how they wish to do so.

14.3.2 Members of the public and press will require to remain seated throughout the meeting.

14.3.3 The Council is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.

14.4 Any person who attends a meeting of the Council for the purpose of reporting on the meeting may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.

14.5 Publication and dissemination may take place at the time of the meeting or occur after the meeting.

- 14.6** For the purpose of this paragraph 'reporting' means:
- 14.6.1** filming, photographing or making an audio recording of proceedings at a meeting;
 - 14.6.2** using other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
 - 14.6.3** reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.
- 4. Renumber paragraphs 14; 15; 16; 17 and 18 to read 15; 16; 17; 18 and 19 accordingly.**

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SCHEDULE 2 ACCESS TO INFORMATION PROCEDURE RULES

APPENDIX 2

These rules implement the requirements of Sections 100 A – K at Schedule 12A of the Local Government Act 1972; Section 9G and 1GA of the Local Government Act 2000, ~~and The Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012~~ and The Openness of Local Government Bodies Regulation 2014.

1 SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees and Regulatory Committees (together called meetings). Rules 12 – 16 apply to meetings of the Executive.

2 ADDITIONAL RIGHTS TO INFORMATION

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

3 RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject ~~only 3.1~~ to the exceptions in these rules, Rule 4.20, Rule 4.23 of the Council's Procedure Rules and Rules 14 and 16 of Schedule 1 – non Regulatory Committee Procedure Rules.

4 NOTICES OF MEETING

The council will give at least five clear days notice of any meeting by posting details of the meeting at its main offices and publishing it on the Council's website.

5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at its main offices at least five clear days before the meeting and the Council's website.

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5.2 If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection ~~for the time when~~ the item ~~is~~ was added to the agenda.

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5.3 ~~Where the meeting is convened at shorter notice a copy of the agenda and associated reports will be available for inspection when the meeting is convened.~~

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~~5.4~~ 5.4 If the Chief Executive thinks fit, there may be excluded from any agenda the whole or any part of a report, any matter which in the Chief Executives opinion is likely to be "Confidential Information" and/or "Exempt Information"

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6 SUPPLY OF COPIES

The Council will supply copies of:

6.1 ~~any agenda and reports which are open to public inspection; Except during any part of a meeting during which the public are excluded, the Council will make available for the~~

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use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

6.2 ~~any further statements or particulars necessary to indicate the nature of the items in the agenda; and~~ Subject to any 'Confidential Information' and/or 'Exempt Information' following a request by a member of the public or on behalf of a newspaper, and on payment being made of postage, copying or other necessary charge for transmission, the Council will supply to that person or newspaper

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6.2.1 a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meetings;

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6.2.2 Each further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda and

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6.2.3 if the Chief Executive thinks fit in the case of any item a copy of any other documents supplied to Councillors in connection with the item.
~~if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.~~

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7 ACCESS TO MINUTES ETC AFTER THE MEETING

As soon as reasonably practicable after any meeting of the Cabinet, or its Committees & Joint Committees at which an Executive Decision or delegated decision by an Officer, Monitoring Officer or person writing on their behalf, and make available copies of the following will be made available for six years after a meeting. The Council will make available copies of the following for six years after a meeting
:

7.1 the minutes of the meeting or records of decisions taken, together with reasons, any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

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7.2 a record of any conflict of interest relating to the matter decided which is declared by any member or a note of any dispensation granted by the Chief Executive

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7.2.3 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

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7.2.4 the agenda for the meeting; and

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7.2.5 reports relating to items when the meeting was open to the public.

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8 BACKGROUND PAPERS

8.1 List of background papers

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and

8.1.2 which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

~~9~~ **SUMMARY OF PUBLIC'S RIGHTS**

~~A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ.~~

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~~10~~ **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

~~10.19.1~~ **Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

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~~10.29.2~~ **Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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

~~10.39.3~~ **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

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~~10.49.4~~ **Meaning of exempt information**

Exempt information means information falling within the following 10 categories (subject to any condition):

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PART 1 DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

1	Information relating to any individual.
2	Information which is likely to reveal the identity of an individual.
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).

4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**PART 2
QUALIFICATIONS: ENGLAND**

8	Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under (a) the Companies Acts (as defined in section 2 of the Companies Act 2006); (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.
9	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.
10	Information which

	<p>(a) falls within any of paragraphs 1 to 7 above; and</p> <p>(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
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11.10 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

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11 DEFINITIONS

11.1 Executive Decisions

Is any decision made or to be made in connection with the discharge of a function which is the responsibility of the Executive of the Council but does not include purely administrative decisions.

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11.2 Key Decisions

(i) Key decision means any decision to spend or forego income or raise additional income which is significant having regard to the Council's budget for the service or function to which the decision relates. For the purposes of this paragraph the Council interprets as "significant" any decision to spend or forego income or raise additional income exceeding £100,000 in one financial year. For any amounts between £50,000 and £100,000 compliance must be in accordance with Financial Guidance

or

any decision that has a significant affect on two or more wards. For the purposes of this paragraph the Council interprets as "significant" any proposal which will make a substantial physical alteration to the appearance of the area of two or more wards, or any proposal which will substantially alter the level of a Council service given to people who live or work in the area.

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11.3 Delegated Decision by an Officer

Is a decision which would otherwise have been taken by the Council, or a Committee, sub-Committee or joint Committee of the Council, but it has been delegated to an officer at the Council either

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11.3.1 under a specific express authorisation; or

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11.3.2 under a general authorisation to take such decisions and the effect or the decision is to:

11.3.2.1 grant a permission or licence;

11.3.2.2 affect the rights of an individual; or

11.3.2.3 award a contract or views expenditure which fulfils the definition a key decision

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12 EXECUTIVE MEETINGS

12.1 Notice of Private Meetings of the Executive

When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its committees a notice of intention to hold a meeting in private will be published on the Council's website at least 28 clear days before the date of the private meeting. The notice will also be made available at the Council offices. The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

At least five days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be held in private, details of any representations made about holding the meeting in public, and the response to those representations.

12.2 Urgent Private Meetings of the Executive

If the urgency of a decision makes compliance with rule ~~11~~2.1 impracticable, the decision maker or decision making body will seek agreement from the Chairman of the relevant Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chairman of the Overview and Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council's website and made available at the Council offices setting out why the meeting is urgent and cannot reasonably be deferred.

13 PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

~~13.1~~13.1 a Notice (called here a Key Decision Notice) has been published in connection with the matter in question;

~~13.2~~13.2 at least 28 clear days before the date when the decision is to be taken; and

~~13.3~~13.3 where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 47 (notice of and summons to meetings).

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14 THE FORWARD PLAN

14.1 Period of forward plan

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Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Content of forward plan

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The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained.

A Key Decision Notice will contain details of:

- 14.2.1 the matter in respect of which a decision is to be made;
- 14.2.2 where the decision taker is an individual, his/her name and, title, if any and where the decision taker is a body, its name and details of membership;
- 14.2.3 the date on which, or the period within which, the decision will be taken;
 - (a) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - (b) the means by which any such consultation is proposed to be undertaken;
 - (c) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
 - (d) a list of the documents submitted to the decision taker for consideration in relation to the matter.

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~~14.2.4~~ The forward plan will be published at least 744 days before the start of the period covered. ~~The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

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~~(a) that key decisions are to be taken on behalf of the Council;~~

~~(b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;~~

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~~(c) that the plan will contain details of the key decisions to be made for the four month period following its publication;~~

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~~(d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices; a list of the documents submitted to the decision taker for consideration in relation to the matter and how to obtain copies of such documents;~~

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~~(e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decision on the plan;~~

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~~(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;~~

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~~(g) a statement that other documents may be taken into account by the decision taker and how to obtain copies of any such documents;~~

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~~(h) the procedure for requesting details of documents (if any) as they become available; and~~

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~~(i)(e) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.~~

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~~14.2.5~~ 14.2.4 Exempt information need not be included in a forward plan and confidential information cannot be included.

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15 GENERAL EXCEPTION – URGENT BUSINESS

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15.1 Subject to Rule 16, where a matter which is a Key Decision requires an urgent decision and the required 28 days notice has not been given, the decision may still be taken if:

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15.1.1 the Chairman of the Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee, has been informed by notice in writing of the matter about which the decision is to be made;

15.1.2 a Key Decision Notice has been published and made available for inspection by the public; and

15.1.3 five clear days have elapsed following the day on which the Key Decision Notice was published and made available.

16 SPECIAL URGENCY

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If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice, or, in the absence of the Mayor, the agreement of the Deputy Mayor.

17 REPORT TO COUNCIL

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17.1 When an overview and scrutiny committee can require a report

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If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- 17.1.1 included in the forward plan; or
- 17.1.2 the subject of the general exception procedure; or
- 17.1.3 the subject of an agreement with a relevant overview and scrutiny committee chairman, or the chairman/vice chairman of the Council under Rule 16;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the committee when so requested by (the chairman or any five members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 Executive's report to Council

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The executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 ~~Quarterly~~Executive reports on special urgency decisions

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In any event the Leader will submit ~~quarterly where required a~~ reports to the ~~next meeting of the~~ Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) ~~in the preceding three months~~. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17.4 The Leader of the Council is required to submit at least one report under paragraph 17.3 annually.

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18 RECORD OF DECISIONS

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After any meeting of the executive or any of its committees, whether held in public or private, the Chief Executive or monitoring officer or person acting on their behalf will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

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The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private in accordance with the requirements of the legislation.

20 NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

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Members of the executive or its committees will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

21 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

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21.1 All members of the executive will be served notice of all private meetings of committees of the executive, whether or not they are members of that committee.

21.2 All members of the executive are entitled to attend a private meeting of an executive committee although they may not speak unless the members of the committee/sub-committee agree.

21.3 Notice of private meetings of the executive and its committees will be served on the chairmen of all overview and scrutiny committees and sub-committees, at the same time as notice is served on members of the executive. Where an overview and scrutiny committee does not have a chairman, the notice will be served on all the members of that committee.

21.4 Where a matter under consideration at a private meeting of the executive, or a committee of it, is within the remit of an overview and scrutiny committee/sub-committee, the chairman of that committee or in his/her absence the vice chairman may attend that private meeting with the consent of the person presiding, though not speak unless those present agree.

21.5 The head of the paid service, the monitoring officer and the chief financial officer, and their nominees are entitled to attend any meeting of the executive and its committees.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

22 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

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22.1 Reports intended to be taken into account

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

22.2 Provision of copies of reports to overview and scrutiny committees

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On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chairman of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

22.3 Record of individual decision

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As soon as reasonably practicable after any Executive decision has been taken by an individual Member or after a Key Decision has been taken by an officer he or she will instruct the Chief Executive/Monitoring Officer-Officer or person acting on their behalf to prepare a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any

Executive Member and in respect of any declared conflict of interest, a note of dispensation granted by the Councils Chief Executive.

22.4 Nature of rights

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

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22.5 Rights of Members to attend meetings when exempt information is being considered

All Members are entitled to attend a meeting of the Council or its committees or sub committees, where they are not an ordinary member, when exempt information is being considered. Exceptions to this entitlement will be made at the discretion of the respective Chairman and/or the Chief Executive or the Solicitor to the Council and Monitoring Officer depending on the nature of the exempt information, for example staffing issues, licensing appeals and standards and ethics issues.

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23 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

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23.1 Material relating to business to be transacted at a public meeting of the Executive

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting, and any such document must be available for inspection for at least five clear days before the meeting.

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23.2 Other Material relating to business transacted

All members of the Council will be entitled to inspect any document which is in the possession or under the control of Executive and contains material relating to any business transacted at a private meeting of Executive, or any decision made by an individual Executive member or an officer, within 24 hours after the meeting concludes or after the decision has been made.

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23.3 Exceptions

However, a document is not required to be available for inspection under Rule 23.1 or 23.2 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of contract negotiations), or paragraph 6 of Schedule 12A. A document is not required to be available for inspection if advice provided by a political adviser or assistant would be disclosed.

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23.4 Nature of Rights

These rights of a member are additional to any other right they may have in statute or at common law.

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24 OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS

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24.1 Within 10 clear days of so requesting, an Overview and Scrutiny Committee or any member of the Overview and Scrutiny Committees (including task groups) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

24.1.1 any business that has been transacted at a meeting of a decision-making body of the Council;

24.1.2 any decision that has been made by an individual Executive Member in accordance with executive arrangements; or

24.1.3 any decision that has been made by an officer of the Council in accordance with executive arrangements except for documents, or parts of documents, which contain:

(a) advice provided by a political adviser; or

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(b) exempt or confidential information, unless that information is relevant to:

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(i) any action or decision that the Member is reviewing or scrutinising; or

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(ii) any review contained in the work programme of the Overview and Scrutiny Committee.

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Overview and Scrutiny will not be entitled to any document which is in draft form.

Where the Executive determines that a member of an Overview and Scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in (a) or (b) above, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.