

## **PART 4**

### Rules of Procedure

#### **Part 4D - Overview and Scrutiny Rules**

##### **RULE 1. GENERAL**

###### **Application and amendment of rules**

- 1.1 These Procedure Rules shall apply to the Overview and Scrutiny Committee ('the O&S Committee') and, unless the context otherwise requires, its sub-Committee(s) and may only be amended or revoked by resolution of Council.

###### **Interpretation**

- 1.2 The definitions in Article 17 of the Constitution shall apply for the purpose of interpreting expressions used in these Rules and the Chair shall be guided in his/her construction and application of these Rules by those definitions and by the Borough Solicitor & Monitoring Officer or their representative.
- 1.3 The headings and sub-headings do not form part of these Rules.
- 1.4 The ruling of the Chair at a meeting of the O&S Committee or a sub-Committee as to the construction or application of any of these Rules shall not be challenged at any meeting of the Authority.

###### **Chair discretion as to formality**

- 1.5 In applying these Rules the Chair may, having taken the advice of the Borough Solicitor & Monitoring Officer or their representative, exercise their discretion in a fair and equitable manner to allow greater informality or to facilitate an investigation in respect of any meeting or item under discussion.

###### **Service of notices and documents**

- 1.6 Any notice or other document which under these Rules is required to be given or delivered to the Proper Officer may be sent by letter, fax or e-mail but shall not have been properly given or delivered until it has been actually received by the Proper Officer.

###### **Suspension of these rules**

- 1.7 These Rules (subject to the exceptions in Rule 1.8 below) may only be suspended by Council and only to the extent permitted by law and only after the advice of the Borough Solicitor & Monitoring Officer has been obtained.
- 1.8 The following Rules are not capable of suspension:

- Rule 25.6 Right to require individual vote to be recorded
  - Rule 29 Prevention of Disorderly Conduct
- 1.9 A motion to suspend cannot be moved without notice unless at least one half of the whole number of Members entitled to be present at the Council Meeting are present. The extent and duration of suspension must be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1 and shall only be for so long as is necessary to transact the particular item of business necessitating the suspension.

## **RULE 2. ESTABLISHMENT OF AND APPOINTMENT TO THE O&S COMMITTEE, SUB-COMMITTEES AND SCRUTINY TASK GROUPS**

### **Membership**

- 2.1 All Councillors except the Leader and Cabinet may be Members of O&S Committee. No Member may be involved in scrutinising a decision with which he/she has been directly involved.

### **General**

- 2.2 O&S Committee shall continue to discharge the functions set out in Part 3 of the Constitution until Council resolves otherwise.
- 2.3 Subject to Section 102(5) of the Local Government Act 1972 (Councillor not re-elected to cease to be a Member of a Committee) and Rule 2.6 every person appointed as a voting Member of the O&S Committee and every person appointed to exercise other functions in relation to the Committee shall continue as such until the next Annual and Selection Meeting of Council or until the appointment is terminated, whichever is the earlier.
- 2.4 Whenever:
- (a) Council is required to review the allocation of seats on the O&S Committee between Political Groups, or
  - (b) Council resolves to carry out such a review, or
  - (c) O&S Committee is required to review the allocation of seats on a sub-Committee between Political Groups.

the Proper Officer shall report to Council or O&S Committee what allocation of seats would, in his/her opinion, best meet the requirements of the Local Government and Housing Act 1989 and regulations made thereunder.

- 2.5 Following a report under Rule 2.4, Council or O&S Committee, as the case may be, shall determine the allocation of seats to Political Groups.

- 2.6 Whenever an appointment of a voting Member of O&S Committee falls to be made in accordance with the wishes of a Political Group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, the Proper Officer shall make or terminate the appointment accordingly.

### **Sub-Committees**

- 2.7 O&S Committee may, for the purposes of carrying out or advising it on any of its functions, appoint one or more sub-Committees, and may, but need not, appoint the Chair and Vice-Chair of the sub-Committee(s).

### **Scrutiny Task Groups**

- 2.8 O&S Committee or the Proper Officer (in consultation with the Committee Chair and Vice-Chair) may, for the purposes of advising on any of the Committee functions, appoint one or more Scrutiny Task Groups (STGs) comprising non-Cabinet Members and Officers. Subject to Rule 2.11, STGs will report to the Committee (or its sub-Committee(s) if so directed by the Committee). The Committee may, but need not, appoint a Chair and Vice-Chair of a STG.
- 2.9 STGs may co-opt external persons to assist in undertaking their tasks.
- 2.10 Unless O&S Committee so requires, STGs need not be politically proportionate.
- 2.11 The Budget STG may (in consultation with the O&S Committee Chair and Vice-Chair) report direct to Cabinet and, if it does so, a copy of the report must also be sent to the next Ordinary O&S Committee meeting.

### **Attendance by other Members**

- 2.12 Subject to the Access to Information Rules, a Member who is not a Member of O&S Committee may attend and, with the approval of the Chair, speak (but not vote) at a meeting of the Committee. This Rule 2.12 is without prejudice to Rule 22.4 (Questions on item under discussion).

### **Substitute Members**

- 2.13 Council has the power of appointment of substitute Members to O&S Committee and the Committee has the power of appointment of substitute Members to sub-Committees. The substitution process is set out in Rule 31.
- 2.14 Council may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on O&S Committee.

- 2.15 For each sub-Committee, O&S Committee may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on that sub-Committee.

### **Co-Opted Members**

- 2.16 O&S Committee may appoint for such period not exceeding two years:
- (a) three non-voting co-optees into membership of the Committee; or
  - (b) with the Council's consent, such greater number of non-voting co-optees as the Council determines.
- 2.17 A co-optee does not have to be a Member of the Council.
- 2.18 If a co-optee is there to represent a particular interest or organisation, O&S Committee may agree to the appointment of one substitute per interest or organisation.
- 2.19 Co-opted Members are subject to the Code of Members' Conduct.

### **RULE 3. QUORUM**

- 3.1 The quorum for O&S Committee shall be one third of its Members subject to a minimum of four where it has nine or more Members and three in any other case.

### **RULE 4. APPOINTMENT OF CHAIR AND VICE-CHAIR**

- 4.1 If Council has not made the appointment, the Chair and Vice-Chair of O&S Committee shall be elected from the Councillors who are Members of the Committee.
- 4.2 The Chair shall not be a Member of the Political Group which forms the Cabinet.
- 4.3 The O&S Committee Chair or Vice-Chair will remain in office until:
- (a) they resign,
  - (b) they are ineligible to act in that capacity by virtue of law
  - (c) if they were appointed by Council, Council terminates their appointment,
  - (d) if they were appointed by Committee, Committee or Council terminates their appointment.

### **RULE 5. FREQUENCY OF MEETINGS**

- 5.1 There shall be at least six Ordinary Meetings of O&S Committee in each year and the date, time and place of these meetings shall be determined by the Proper Officer in consultation with the Chair and Vice-Chair.
- 5.2 The Proper Officer may call an Extraordinary Meeting of O&S Committee whenever he/she considers it appropriate and shall call an Extraordinary Meeting when requested to do so by:
  - (a) the Committee Chair
  - (b) any four Members of the Committee
  - (c) the Council by resolution
- 5.3 The Proper Officer shall also call a meeting of O&S Committee when required to do so for the purpose of Call-in under Rule 29.
- 5.4 An O&S sub-Committee or STG shall meet at such frequency and times as determined by their respective Chair in consultation with the Proper Officer.

## **RULE 6. WORK PROGRAMME**

- 6.1 O&S Committee shall be responsible for setting its work programme or forward plan, which may include the work programme for any sub-Committee or STG, and in doing so it shall take into account the wishes of Members of the Committee who are not Members of the Political Group which forms the Cabinet. The O&S Committee work programme shall be agreed at each Committee meeting.

## **RULE 7. REQUESTS FOR AGENDA ITEMS**

### **Member and Co-Optee Requests**

- 7.1 Any Member of the Authority or a co-optee of O&S Committee may request an item relevant to the functions of the Committee to be included on the agenda for the next available Meeting. Such a request must be given to the Proper Officer not later than 10.00 hours on the seventh working day before the day of the meeting. On receipt of such a request the Proper Officer will, having consulted with the Committee Chair and Vice-Chair, ensure that the item is included on the agenda for the meeting.
- 7.2 The Member or co-optee who asked for the item to be included on the agenda shall be notified of the date and time of the meeting at which it will be considered and given the opportunity to speak for no more than three minutes at the beginning of the consideration of the item. He/she may, with the Chair's consent speak again for no more than three minutes at the close of the discussion of the item.
- 7.3 The Committee will decide one or more of the following actions:

- (a) If the matter is a straightforward one, to resolve it at the meeting;
- (b) To request an Officer report;
- (c) To set up an STG to investigate and report back to the Committee or its sub-Committee;
- (d) To make recommendations to Cabinet or Council as appropriate;
- (e) For stated reasons, to take no further action on the request.

### **Council and Cabinet Requests**

- 7.4 O&S Committee shall also respond, as soon as its work programme permits, to requests from the Council or the Cabinet, to review particular areas of the Authority's activity. O&S Committee shall report its findings and any recommendations back to the Council and/or the Cabinet as appropriate in accordance with Rule 10.

### **When an Overview and Scrutiny Committee can require a report from Cabinet**

- 7.5 If an Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:
- (a) included in the Forward Plan; or
  - (b) the subject of the general exception procedure; or
  - (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Mayor or Deputy Mayor of the Council under Rule 13.5 of the Access to Information Procedure Rules

the Committee may require the Cabinet 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 Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any five Members.

- 7.6 The Cabinet 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, 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.

## **RULE 8. COUNCILLOR CALL FOR ACTION**

- 8.1 Any Member of Council shall be entitled to give notice to the Proper Officer in accordance with the Authority's Gateway Process (see

Appendix I of the Constitution) that he or she wishes a local government matter to be included on the agenda for and discussed at the next available meeting of O&S Committee.

- 8.2 A local government matter is one relating to a local government function affecting the electoral ward of the Member or any person who lives or works in that ward, unless it is an excluded matter. An excluded matter is a crime and disorder matter, a planning or licensing matter, one relating to an individual where a right of appeal exists or any matter which, in the view of the O&S Committee Chair (in consultation with the Proper Officer), is vexatious, discriminatory or not reasonable to be discussed at a meeting of O&S Committee. The Member requesting the call for action must be notified in writing if it is an excluded matter.
- 8.3 The Member who submits the call for action shall have the right to attend and speak at O&S Committee when it is considered.
- 8.4 Having considered a call for action, the Committee will decide one or more of the following actions:
  - (a) If the matter is a straightforward one, to resolve it at the meeting;
  - (b) To request an Officer report;
  - (c) To request the Member submitting the call for action to provide further evidence or information;
  - (d) To set up an STG to investigate and report back to the Committee or its sub-Committee;
  - (e) To make recommendations to Cabinet or Council as appropriate;
  - (f) For stated reasons, to take no further action on the call for action.

## **RULE 9. POLICY REVIEW AND DEVELOPMENT**

- 9.1 The role of O&S Committee in relation to the development of the Budget and Policy Framework is set out in detail in the Budget and Policy Framework Rules (see Part 4G of the Constitution).
- 9.2 In relation to the development of the Authority's approach to other matters not forming part of the Budget and Policy Framework, O&S Committee may make proposals to Cabinet insofar as they relate to executive functions and Council or Committees in so far as they relate to non-executive functions.
- 9.3 Within such resources allocated to it, O&S Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. It may arrange site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

- 9.4 O&S Committee may set up an STG to investigate and report back to it or an O&S sub-Committee in pursuance of policy review and development under Rule 9.

## **RULE 10. REPORTS FROM O&S COMMITTEE AND SUB-COMMITTEES**

### **Reports and recommendations to Cabinet, Council or Committee(s)**

- 10.1 O&S Committee or a sub-Committee may prepare a report, with recommendations, and refer it to Cabinet, Council or a Committee as appropriate.
- 10.2 If O&S Committee or sub-Committee cannot agree on one single final report, one minority report may be prepared and submitted for consideration by Cabinet, Council or Committee with the majority report. The procedure for preparing a minority report is as follows:
- (a) one or more Members at the Meeting propose a minority report setting out the key principles and recommendations of that report;
  - (b) the Committee or sub-Committee may discuss and ask questions about the proposed report;
  - (c) the Committee or sub-Committee notes the report (no vote is required) and the Chair confirms that the minority report will be sent to Cabinet or Council alongside the main report;
  - (d) the Member(s) who proposed the report shall take responsibility for writing it up following the Meeting and in doing so shall take the advice of Officers as to formatting and implications arising.
- 10.3 When O&S Committee or a sub-Committee makes a report to Cabinet, Council or Committee, it may require the Proper Officer to publish the report and any recommendations arising from it. In that case, the Committee or sub-Committee must by notice in writing require Cabinet, Council or Committee as appropriate, within two months of the date on which it receives the report or recommendations or (if later) the notice, to:
- (a) Consider the report and any recommendations;
  - (b) Respond to the O&S Committee or sub-Committee indicating what (if any) action the Cabinet or Council proposes to take;
  - (c) Where the O&S Committee or sub-Committee has published the report or recommendations, publish the response;
  - (d) Where the O&S Committee or sub-Committee provided a copy of the report or recommendations to a Member, provide a copy of the response to that Member.
- 10.4 The publication of reports or recommendations and any responses to them is subject to the exclusion of any confidential or exempt



information as defined by the Access to Information Rules (see Part 4E of the Constitution)

- 10.5 Notwithstanding the two month time limit referred to in Rule 10.3, Cabinet, Council or Committee will normally consider reports and recommendations from O&S Committee or sub-Committee at the next available meeting,
- 10.6 Reports and recommendations of O&S Committee or sub-Committee will normally be presented at Cabinet, Council or Committee by the relevant Chair or Vice-Chair or a Member nominated by the Committee or sub-Committee. The Member concerned will be entitled to participate in discussion of the report and recommendations.
- 10.7 Having considered a report made to it under Rule 9, Cabinet, Council or Committee may send a report or make recommendations back to O&S Committee or sub-Committee, in which case the Committee or sub-Committee shall consider such report or recommendations at its next available meeting.

### **Reports and recommendations to external bodies**

- 10.8 Where O&S Committee or a sub-Committee makes a report or recommendations on a local improvement target or equivalent pursuant to a joint arrangement with a partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendations in exercising its functions.
- 10.9 Where O&S Committee or a sub-Committee makes a report or recommendations on a local crime and disorder matter within its terms of reference, it will copy the report to the County Council Community Safety O&S Committee (or equivalent), notifying them of their duty under s19 Police & Justice Act 2006 (i) to consider the report or recommendations, (ii) to respond to the Committee or sub-Committee within twenty eight days indicating what, if any, action it proposes to take, and (iii) to have regard to the report or recommendations in exercising its functions.

### **RULE 11. RIGHTS OF O&S COMMITTEE MEMBERS TO DOCUMENTS**

- 11.1 O&S Committee has access to the Forward Plan and the Cabinet's timetable for decisions (including key decisions) and intentions for consultation.
- 11.2 In addition to their rights as Councillors, Members of O&S Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Rules (see Part 4E of the Constitution).
- 11.3 Nothing in this paragraph prevents more detailed liaison between the Cabinet and O&S Committee as appropriate depending on the particular matter under consideration.

## **RULE 12. MEMBERS AND OFFICERS GIVING ACCOUNT**

- 12.1 O&S Committee, a sub-Committee or a STG may, within its area of responsibility, scrutinise and review decisions made or actions taken in connection with the discharge of any executive or non-executive functions. To assist in undertaking this role, the relevant Chair may require the Leader, a Cabinet Member, a Committee Chair, the Chief Executive, an Executive Director, a Director or, subject to a contractual duty to so do, a senior Officer in a commissioned organisation to attend before the Committee, a sub-Committee or an STG to explain in relation to matters within their remit:
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy;
  - (c) the performance of their areas of responsibility
- 12.2 Where any Member or Officer is required to attend under Rule 12.1, the relevant Chair will inform the Proper Officer. Subject to Rule 12.4 the Proper Officer shall inform the Member or Officer in writing giving at least five clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, the Member or Officer concerned must be given at least 10 clear working days notice to allow for preparation of that documentation.
- 12.3 A Member who is required to attend a meeting under Rule 12.1 may have a personal and prejudicial interest by reason of Part 6 of the Code of Member's Conduct. In such cases the Member concerned may be present at the meeting only for the purpose of answering questions, giving evidence or otherwise providing information to the meeting. The Member concerned must during the period of their attendance at the meeting declare the existence and nature of the personal and prejudicial interest.
- 12.4 Where O&S Committee is summoned to deal with a called-in decision, any Member or Officer required to attend that Committee shall be given as much notice as is reasonably practicable.
- 12.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Proper Officer in consultation with the relevant Chair and with the Member or Officer concerned shall arrange an alternative date for attendance.

## **RULE 13. INVITATION TO STAKEHOLDERS TO SPEAK/ANSWER QUESTIONS**

- 13.1 O&S Committee, a sub-Committee or an STG may invite, but cannot require, people other than those people referred to in Rule 12.1 to

address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend.

## **RULE 14A. RESTRICTIONS ON MEMBER PARTICIPATION**

14A.1 A Member must withdraw from a meeting (including from the public area/gallery) during the whole of the consideration of any item of business in which the Member has a Disclosable Pecuniary Interest, or in which the Member has an “other” interest where, as a consequence of Part 6 of the Council’s Code of Conduct, the Member is required to leave the meeting and not participate or vote on the matter, unless the Member is permitted to remain through the granting of a dispensation.

## **RULE 14. CALL-IN**

### **General Principles**

14.1 Call-in is the exercise of the power of O&S Committee to review a decision in respect of an executive function that has been made but not yet implemented. Once called-in, the decision cannot be implemented other than in accordance with the call-in procedures set out in this Rule 14.

14.2 The following types of decision can be called-in: (i) Cabinet decision; (ii) Cabinet Member decision; (iii) Officer key decision; (iv) decision made under Joint Arrangements  
EXCEPT that a decision to recommend to Council cannot be called-in.

14.3 A decision may be called in only once.

14.4 A request for call-in can only be made on the basis that the decision maker did not take the decision in accordance with one or more of the Principles of Decision Making as set out in Article 13 of the Constitution.

### **Procedure prior to call-in**

14.5 When any decision is made by the Cabinet or a Cabinet Member or a key decision is made by an Officer, or by a joint Committee or Officer under joint arrangements, notice of the decision shall be published including, where possible, by electronic means, and shall be available at the Municipal Offices normally within two working days of being made. Copies of all such decisions will be sent to all Members of the Council at the same time as being published.

14.6 The notice in Rule 14.5 will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the decision has been called-in.

## **Procedure for calling-in**

- 14.7 During the five clear working day period referred to in Rule 14.6, the Proper Officer shall call-in a decision for scrutiny by O&S Committee if so requested by its Chair or any four Members of the Council, provided that full written particulars of the reason(s) for the call-in has been received by the Proper Officer by 4.30 p.m. on the fifth clear working day.
- 14.8 The Proper Officer shall immediately notify the decision maker that a call-in request has been received. The Proper Officer shall call a meeting of the O&S Committee to be held on such date as he/she may determine, where possible after consultation with the O&S Chair and, in any case, the meeting shall take place within a period of ten clear working days of the receipt by the Proper Officer of a valid call-in request or such longer period as agreed by both the decision maker and the Member(s) requesting the call-in.
- 14.9 If O&S Committee does not meet in the period set out in Rule 14.8 the decision can be implemented immediately at the end of that period.
- 14.10 In the event of the Member(s) submitting the request for call-in confirming to the Proper Officer in writing that the request is withdrawn, the decision can be implemented immediately.

## **Procedure for scrutinising the decision**

- 14.11 The Member(s) submitting the request for call-in will be expected to attend O&S Committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose regarding the decision making process.
- 14.12 The decision maker (represented by the Leader or Lead Member if it is a Cabinet decision and the Committee Chair or Vice-Chair if it is a joint Committee decision) may be required to and shall be entitled to attend O&S Committee and respond to the request for call-in.
- 14.13 Having considered the facts of the call-in and having received any representations from the Member(s) who submitted the request and the decision maker, O&S Committee may either:
- (a) Support the decision without qualification or comment, in which case the decision can be implemented immediately; or
  - (b) Make adverse comments (with reference to the Principles for Decision Making in Article 13) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented immediately and the O&S Committee comments will be set out in a report to be considered by the decision maker; or

- (c) Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from O&S Committee and decided how to proceed; or
  - (d) In exceptional circumstances (to be determined by O&S Committee and recorded in the minutes) to refer the decision to Council for review or scrutiny
- 14.14 O&S Committee may refer the call-in to a sub-Committee or a STG for consideration prior to taking action under Rule 14.13 (b)-(d) and, if so, the following shall apply:
- (a) O&S Committee shall meet to take its final decision on the call-in under Rule 14.13 not later than 20 clear working days from the date of the O&S Committee meeting arranged by the Proper Officer under Rule 14.8
  - (b) The Member(s) who submitted the call-in and the decision maker (represented by the Leader or Lead Member in respect of a Cabinet decision and the Committee Chair or Vice-Chair in respect of a joint Committee) may be required and shall be entitled to attend before the sub-Committee or STG
- 14.15 On receiving a request from the Member(s) who submitted the call-in within the 20 clear working day period set out in Rule 14.14 (a), the Proper Officer may extend that period by up to an additional 10 clear working days (potentially allowing up to 30 clear working days for O&S Committee to meet to take its final decision)
- 14.16 If O&S Committee does not meet to consider the call-in within the period set out in Rule 14.14 (a) or such extension to that period as is made by the Proper Officer under Rule 14.15, the decision can be implemented immediately at the end of that period or extended period.

### **Review and scrutiny by Council**

- 14.17 Where O&S Committee decides to refer the call-in to Council under Rule 14.13 (d), Council must consider the matter at its next available meeting (other than an Annual or Annual and Selection Meeting) or, if the next available meeting is not due to be held within 15 clear working days of the O&S Committee meeting, at an Extraordinary Meeting to be convened by the Proper Officer within that time.
- 14.18 If Council does not meet to consider the call-in within the period set out in Rule 14.17 the decision can be implemented immediately at the end of that period.
- 14.19 If Council does meet to consider the call-in within the period set out in Rule 14.17 but defers consideration of all or part of the call-in to a future Council meeting, Council shall meet to make its final decision on

the call-in within 60 clear working days of the receipt of the call-in under Rule 14.7. If Council does not meet to consider the call-in within that 60 clear working day period, the decision can be implemented immediately at the end of that period.

- 14.20 Having considered the facts of the call-in and any recommendations from O&S Committee and having received any representations from the Member(s) who submitted the request and the decision maker, Council may either:
- (a) Support the decision without qualification or comment, in which case the decision can be implemented immediately; or
  - (b) Make adverse comments (with reference to the Principles for Decision Making in Article 13) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented immediately and Council comments will be set out in a report to be considered by the decision maker; or
  - (c) Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from Council and decided how to proceed.
- 14.21 Where the call-in relates to a failure to comply with the Budget and Policy Framework Rules Council may, in addition to its powers under Rule 14.20:
- (a) amend the Budget or the Policy Framework to allow the decision to be implemented in compliance with the Budget and Policy Framework Rules,
  - (b) authorise the decision to be implemented as a departure from the Budget or the Policy Framework.

#### **Action by the decision maker following call-in**

- 14.22 On receiving a report from O&S Committee or Council, the decision maker shall consider the report and any recommendations and report to the next available O&S Committee the outcome of that consideration.
- 14.23 Where O&S Committee or Council proposes modifications to or an alternative to the decision that was called in, the decision maker shall either:
- (a) Confirm the called-in decision without modification; or
  - (b) Confirm the called-in decision with modification; or
  - (c) Rescind the called-in decision, take the alternative decision proposed, or propose a new decision.

14.24 Where the decision maker is acting under delegated powers, they may refer the report or proposals from O&S Committee or Council to the delegator to take the actions under 14.9 and 14.20 instead of the decision maker.

### **Call-in and Urgency**

14.25 Subject to Rule 14.26, call-in does not apply to an urgent decision as defined in Article 13.

14.26 In order to rely on Rule 14.25 the decision maker must:

- (a) Obtain the prior consent of the O&S Committee Chair to the decision being treated as urgent. In the absence of the Chair, prior consent may be given by, in order, the Vice-Chair or the Group Leaders acting collectively; and
- (b) Request the Proper Officer to record in the decision, and notice by which it is made public, why in the opinion of the decision maker the decision is an urgent one and not subject to call-in.

## **RULE 15. ORDER OF BUSINESS**

### **Ordinary Meetings of O&S Committee**

15.1 Ordinary meetings will:

- (a) choose a person to preside if the Chair and Vice Chair are absent;
- (b) approve as a correct record any minutes of the last or previous meetings of the Committee or its sub-Committee(s);
- (c) receive any declarations of interest from Members;
- (d) note any substitutions and receive any whipping declarations made under Rule 3.1;
- (e) receive any announcements from the Chair and the Head of Paid Service or their representative;
- (f) receive questions from, and provide answers to, members of the public in accordance with these Procedure Rules;
- (g) receive questions from, and provide answers to, Members in accordance with these Procedure Rules;
- (h) deal with any business outstanding from the last Committee meeting;
- (i) consider any councillor calls for action or petitions;

- (j) receive, consider and determine reports, recommendations and briefing papers from the Leader, Cabinet, Council, Committees, sub-Committees, STGs and working groups;
- (k) receive, consider and determine reports and briefing papers from Officers, including reports from the Head of Paid Service, the Borough Solicitor & Monitoring Officer and the Chief Finance Officer;
- (l) consider any other business specified in the agenda for the meeting including scrutiny of executive decisions and investigations with a view to policy development;
- (m) consider and revise the work programme;
- (n) consider any item which, by reason of special circumstances to be specified in the minutes of the meeting, the Chair considers should be considered at the meeting as an urgent item.

15.2 The order of business in Rule 15.1, other than items (a) to (g), may be varied by:

- (a) the Proper Officer in preparing the agenda for the Meeting or by the direction of the Chair if he/she considers the variation to be desirable for the efficient despatch of the Committee's business, or convenient, including so as to avoid duplication or repetition of matters under consideration; or
- (b) a resolution of the Committee moved and put Without Comment.

### **Extraordinary Meetings of O&S Committee**

15.3 An Extraordinary Meeting will:

- (a) choose a person to preside if the Chair and Vice-Chair are absent;
- (b) receive any declarations of interest from Members;
- (c) receive questions from, and provide answers to, members of the public and elected Members in accordance with these Procedure Rules, but only in so far as they relate directly to the business for which the meeting was convened;
- (d) consider any business set out in the notice convening the meeting;



- (e) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Chair considers should be considered at the Meeting as a matter of urgency.
- 15.4 The Chair or the Proper Officer may include on the agenda of an Extraordinary Meeting such other business as he/she determines should be included for the efficient despatch of Committee business.
- 15.5 An Extraordinary Meeting may approve any minutes of the last or previous Meetings.

#### **RULE 16. DURATION OF MEETING**

- 16.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has sat for four hours in total will immediately adjourn and the remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

#### **RULE 17. OFFICERS REPORTING DIRECTLY TO O&S COMMITTEE**

- 17.1 Where an Officer submits a report or recommendation directly to O&S Committee (other than jointly with the Leader, a Cabinet Member or Committee Chair):
- (a) that report/recommendation shall be treated as if it was the recommendation of the Committee the adoption of which had been formally moved and no further motion is required for it to be received and approved by the Committee;
  - (b) if an amendment is moved to any recommendation of the Officer, the Chair may, if he/she considers it appropriate, invite the Officer to reply to the amendment immediately before the question is put.
- 17.2 Where an Officer submits a written report directly to O&S Committee jointly with the Leader, a Cabinet Member or Committee Chair, the Member concerned, or, if he/she is absent, someone on his/her behalf, shall move the motion to receive and approve its recommendations and, if it is subject to an amendment, shall have the right to reply to the amendment immediately before the question is put.
- 17.3 When the Head of Paid Service, the Chief Finance Officer or the Borough Solicitor & Monitoring Officer or any other Officer is submitting a report or making a recommendation to O&S Committee in accordance with a statutory obligation, the Officer, or anyone on his/her behalf, shall have the right to address the Meeting and to answer questions arising from his/her report or the debate.

#### **RULE 18. ROLES OF CHAIR AND VICE-CHAIR**

- 18.1 The Chair shall preside at all meetings at which he/she is present. If he/she is absent, or has resigned, the Vice-Chair shall preside. If both of them are absent a Person Presiding shall be appointed under Rule 19 and no business (other than the appointment of a Person Presiding) shall be transacted at that meeting unless there is a Person Presiding.
- 18.2 The Chair shall at his/her discretion take all such steps as he/she considers necessary to ensure the proper and orderly conduct of meetings.
- 18.3 The ruling of the Chair on any matter in relation to Rule 23 (Rules of Debate) shall be final.
- 18.4 Where the Vice-Chair or a Person Presiding is presiding over the meeting pursuant to Rule 18.1 they will assume all powers and duties of the Chair for control and regulation of the meeting including the right to a second or casting vote.

## **RULE 19. APPOINTMENT OF PERSON PRESIDING**

- 19.1 For the purposes of appointing a Person Presiding under Rule 18.3, the Proper Officer or the Borough Solicitor and Monitoring Officer or other Officer present (in that order) shall call upon a Member present to move that a Member be appointed and shall exercise the powers of the Person Presiding to regulate that discussion and to maintain order at the meeting, but shall not be entitled to vote.
- 19.2 The motion, and any amendments, shall be put to the meeting in accordance with the normal rules for electing the Chair or making appointments, as appropriate.
- 19.3 In the event of an equality of votes, the Officer regulating the discussion may adjourn the meeting for up to ten minutes to enable informal discussions to take place. If, after the meeting has reconvened, there is still an equality of votes after a further vote has been taken the Officer regulating the discussion shall, unless the meeting resolves to adjourn to another time, determine the matter by lot.

## **RULE 20. PREVIOUS DECISIONS AND MOTIONS**

### **Motion to rescind a previous decision**

- 20.1 Subject to Rule 20.3, a motion or amendment to rescind a decision made at a meeting of the O&S Committee within the previous six months cannot be moved unless the motion is submitted to the Proper Officer before the start of the Meeting and is signed by at least the number of Members that constitute the quorum.

## **Re-introduction of business**

- 20.2 Subject to Rule 20.3, no matter which has been decided by O&S Committee in the same way twice within a period of twelve months shall again be submitted for the Committee's consideration with a view to the decision being rescinded or varied until six months after the second of such decisions.

## **Exception**

- 20.3 Rules 20.1 and 20.2 do not apply where the matter is placed before O&S Committee upon the recommendation of Cabinet or Council or where the Borough Solicitor & Monitoring Officer considers that for legal reasons or because of a material change of circumstances it is appropriate for the Committee to reconsider the matter.

## **RULE 21. MINUTES AND REPORTS**

### **Signing the minutes**

- 21.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. He/she will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### **No requirement to sign minutes of previous meeting at extraordinary meeting**

- 21.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, the next following Ordinary Meeting will be treated as a suitable meeting for the purposes of paragraph 21.1 for signing of minutes.

### **Confidential and Exempt Information**

- 21.3 All agendas and reports that are marked "Not for Publication" because they contain Confidential or Exempt information shall be treated as confidential unless and until they become public in the ordinary course of the Authority's business. All such agendas, reports and other documents shall be clearly identified by being printed on pink paper (although enclosures and other documents may be on other colours) and by being clearly stamped or otherwise marked on all pages as being confidential.
- 21.4 The Borough Solicitor and Monitoring Officer shall investigate any alleged breach of Rule 21.3 and shall submit a report on the results of his/her investigation as appropriate to:
- the Standards Committee;

- an Ordinary or Extraordinary meeting of O&S Committee; or
- an Ordinary or Extraordinary meeting of the Council

within 21 days of his/her supplying a copy of the report to all Members.

- 21.5 No discussion shall take place during any Council Meeting, Cabinet meeting or Committee meeting (apart from Standards Committee) concerning any alleged breach of this Rule which is being investigated by the Borough Solicitor and Monitoring Officer until a report on the results of the investigation has been formally supplied to all Members.

## **RULE 22. PUBLIC AND MEMBER QUESTIONS**

### **General**

- 22.1 Any person living, working or studying in the Borough of Cheltenham, or a Borough Council elected Member may at Ordinary Meetings of O&S Committee ask written questions of the Chair about any matter falling within the terms of reference of the Committee.

### **Order of questions**

- 22.2 Questions will be divided in to public and Member questions and asked in the order notice of them was received, except where the Proper Officer decides to group together similar questions.

### **Notice of questions**

- 22.3 Subject to Rule 22.4, a question may only be asked if notice has been given by delivering it to the Proper Officer no later than 12.00 hours on the 7th working day before the day of the meeting. Each question must give the name and address of the questioner and confirm whether the questioner intends to attend the Meeting.

### **Questions on item under discussion**

- 22.4 Any Council Member may ask the Chair any question without notice in relation to an item under discussion at Committee subject to the Chair (after consultation with the Proper Officer) being able to disallow a question if it falls within (b-e) of Rule 22.6 below.

### **Number of questions**

- 22.5 No person may submit more than two questions (including sub-questions) at any one Meeting and no more than two questions (including sub-questions) may be asked on behalf of one organisation.

### **Scope of questions**

- 22.6 The Proper Officer may reject a question if it:

- a) is submitted by someone other than a local government elector for the Borough or an elected Member;
- b) is about a matter which does not affect the Borough or for which the Committee does not have responsibility;
- c) is defamatory, frivolous or offensive;
- d) is substantially the same as a question which has been put at a meeting of the Committee in the previous six months; or
- e) requires the disclosure of Confidential or Exempt information.

22.7 The Proper Officer will inform the Committee Chair of every question he/she rejects and the reasons for rejection.

### **Record of questions**

22.8 The Proper Officer will ensure each question is open to public inspection and will immediately send a copy of the question to the Chair. Rejected questions will include reasons for rejection.

22.9 Copies of all questions and written answers to them will be circulated to all Members at the start of the meeting and will be made available to the public attending the meeting.

### **Procedure at the O&S Committee Meeting**

22.10 The Chair will invite the questioner to put the question. The question need not be read out if the questioner so agrees and will not be read out if the questioner is unable to be present at the meeting.

22.11 Answers will be given, Without Comment, normally by a direct oral answer and a written copy of the answer will also be given to the questioner if he/she is present or sent to him/her if he/she is unable to attend. A written answer alone will suffice where the questioner agrees an oral answer is not necessary or an oral answer cannot conveniently be given.

### **Supplementary question**

22.12 A questioner who has put a question in person may also put one supplementary question without notice to Chair. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 22.6 above.

22.13 Answers to supplemental questions will be given, Without Comment, normally by a direct oral answer. A written answer to be provided to the questioner following the meeting will suffice where the questioner

agrees an oral answer is not necessary or an oral answer cannot conveniently be given.

### **Reference of question to the Cabinet or Council or another Committee**

- 22.14 Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet, Council or an appropriate Committee. Once moved, such a motion will be voted on Without Comment.

### **Time for questions**

- 22.15 No more than 20 minutes shall be set aside at any Committee meeting for the posing and answering of questions under this Rule.
- 22.16 If any questions remain to be dealt with after the end of the 20 minute period, the Chair may at his/her discretion extend the period within which the questions may be put and answered if satisfied that the remaining questions can be dealt with expeditiously and they are of sufficient urgency.
- 22.17 Any question which cannot be dealt with during the time given for questions under Rules 22.15 and 22.16 will be dealt with by a written answer.

## **RULE 23. RULES OF DEBATE**

### **Members to address the Chair**

- 23.1 A Member shall speak only when called to do so by the Chair. A Member shall address the Chair only.

### **Members' Speeches**

- 23.2 Members shall address or refer to each other only as "Councillor". When a Member is speaking other Members shall remain silent, unless raising a point of order or a personal explanation.

### **Content of speeches**

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

### **Right to require motion in writing**

- 23.4 Unless notice of the motion (including an amendment) has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

### **Amendments to motions**

23.5 An amendment to a motion must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words.

as long as the effect of (b) to (d) is not to negate the motion.

23.6 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, although notice of further amendments may be given.

23.7 If an amendment is not carried, other amendments to the original motion may be moved.

23.8 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

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

#### **Withdrawal or alteration of motion**

23.10 A Member may without notice withdraw or alter a motion which he/she has moved with the consent of the Meeting signified Without Comment.

#### **Right of reply**

23.11 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

23.12 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

23.13 The mover of the amendment has the right of reply to the debate on his/her amendment immediately before the final speech of the mover of the original motion.

#### **Motions which may be moved during debate**

23.14 When a motion is under debate, no other motion may be moved except a procedural motion under Rule 23.15.

### **Procedural Motions**

23.15 The following procedural motions may be moved without notice:

- (a) to elect in the event of a vacancy a Chair or Vice-Chair or to appoint a Person Presiding for the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business on the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a sub-Committee or working group arising from an item on the agenda for the meeting;
- (f) to receive reports of or adopt recommendations of Committees, sub-Committees, working groups, Cabinet, Council or Officers and any resolutions following from them;
- (g) to make any decision arising out of or directly relevant to an item on the agenda for the meeting;
- (h) to give leave to withdraw or alter a motion;
- (i) to amend a motion;
- (j) to reject a motion;
- (k) to proceed to the next business;
- (l) that the question be now put;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) that the meeting continue beyond four hours in duration;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named or to exclude him/her from the meeting under Rule 28.

### **Motion to proceed to the next business**



23.16 If a procedural motion "to proceed to the next business" is moved and the Mayor considers that the item has been sufficiently discussed, he/she must give -

- (a) in the case of an original motion, the mover of that motion: and
- (b) in the case of an amendment, both the mover of the amendment and the mover of the original motion

a right to reply and then put the procedural motion to the vote Without Comment. If the procedural motion is carried the original motion and any amendment thereto shall lapse.

#### **Motion that the question be now put**

23.17 If a procedural motion "that the question be now put" is moved and the Chair considers that the item has been sufficiently discussed, he/she must put the procedural motion to the vote without comment. If the procedural vote is passed, the Chair must give -

- (a) in the case of an original motion, the mover of that motion: and
- (b) in the case of an amendment, both the mover of the amendment and the mover of the original motion

a right of reply and then put the motion to the vote without comment.

#### **Motion to adjourn the debate or meeting**

23.18 If a procedural motion to adjourn the debate or to adjourn the meeting is moved and the Chair considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote Without Comment and without giving the mover of the original motion the right of reply.

23.19 If a motion to adjourn the debate or meeting is accepted the item under discussion or remaining business shall stand over as uncompleted business to the next Ordinary Meeting.

23.20 If a motion to adjourn the debate or meeting is rejected, a similar motion cannot be moved within 30 minutes, except with the consent of the Meeting signified by vote Without Comment.

#### **Point of order**

23.21 A Member may raise a point of order at any time and the Chair shall hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which he/she considers it has been breached.

#### **Personal explanation**

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

## **RULE 24. VOTING**

### **Majority**

- 24.1 Unless the law requires or this Constitution provides otherwise, all matters will be decided by a simple majority of those Members voting and present in the room at the time the question is put.

### **Casting vote**

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

### **Show of hands/Electronic voting system**

- 24.3 Unless a ballot or recorded vote is demanded under Rules 24.4 or 24.5 below the Chair will take the vote by show of hands or by using the electronic voting system, or if there is no dissent, by the affirmation of the meeting.

### **Ballots**

- 24.4 The vote will take place by secret ballot if the number of Members constituting the quorum at the Meeting demand it, provided that any Member who wishes to have the way his/her vote is cast recorded in the minutes of the meeting may cast his/her vote under Rule 24.6 below and not by ballot. The Chair will announce the numerical result of the ballot immediately the result is known.

### **Recorded vote**

- 24.5 The vote will be recorded if the number of Members constituting the quorum at the meeting demand it. The names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

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

- 24.6 Where any Member requests it, immediately after the vote is taken, his/her vote will, unless it is a recorded vote under Rule 24.6, be recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

### **Voting on appointments**

- 24.7 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, the name of the person with the least number of votes will be taken off the list and a new vote taken. In the event of more than one person having the least number of votes, the Chair shall have a second and casting vote to determine who shall be taken off the list. The process will continue until there is a majority of votes for one person.
- 24.8 In the event of two or more persons receiving the same number of votes and also receiving the highest number of votes, a further vote will be taken between those persons only and the Chair shall have a second or casting vote
- 24.9 Where more than one person is required to be appointed by the Authority and the number of persons nominated exceeds the number of vacancies, the number of persons equal to the number of vacancies who receive the greatest number of votes shall be appointed.
- 24.10 In the event of persons receiving the same number of votes so that the number of persons receiving the greatest number of votes exceeds the number of vacancies, a further vote will be taken between those persons only.

## **RULE 25. EXCLUSION OF PUBLIC**

- 25.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4E of this Constitution or Rule 26 (Disorderly Conduct).

## **RULE 26. PREVENTION OF DISORDERLY CONDUCT**

### **Members**

- 26.1 If the Chair is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or wilfully obstructing the business of the Council, he/she may notify the meeting of that opinion, and may take any of the following courses, either separately or in sequence:
- (a) he/she may direct the Member to refrain from speaking during all, or part, of the remainder of the meeting;
  - (b) he/she may direct the Member to withdraw from all, or part, of the remainder of the meeting;
  - (c) he/she may direct that the Member be removed from the meeting;

(d) he/she may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.

26.2 A direction made under Rule 26.1 above may also be made by the meeting on a motion proposed and put Without Comment.

### **The Public**

26.3 If a member of the public interrupts proceedings at any meeting, the Chair shall warn him/her. If he/she continues the interruption, the Chair shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the Chair shall order him/her to be removed. If a member of the public persistently creates a disturbance, the Chair may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.

### **General**

26.4 In the event of general disturbance in any part of the room where any meeting is being held which is open to the public, the Chair shall order that part to be cleared and may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.

26.5 The powers conferred by this Rule are in addition to any other powers which the Chair may lawfully exercise.

## **RULE 27. THE PARTY WHIP**

27.1 When considering any matter in respect of which a Member of O&S Committee is subject to a party whip, the Member must declare the existence of the whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

## **RULE 28. INVESTIGATIONS**

28.1 Where O&S Committee, a sub-Committee or a STG conducts investigations, and Members, Officers or other persons attend to give evidence, the meeting shall be conducted in accordance with the following principles:

- (a) that the investigation be conducted fairly and all of the Committee, sub-Committee or STG be given the opportunity to ask questions of attendees and to contribute and speak;
- (b) that those giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

## **RULE 29. SUBSTITUTION PROCESS**

29. A substitute Member may participate in a meeting of the O&S Committee in that capacity only:
- (a) to take the place of an ordinary Member for whom they are the designated substitute;
  - (b) where the ordinary Member will be absent for the whole of the meeting; and
  - (c) subject to Rule 29.2, after notifying the Proper Officer of the intended substitution at least two hours before the start of the meeting.
- 29.2 Where, immediately following Annual and Selection Council, the Committee chooses to appoint its Chair and Vice-Chair, a substitute Member may participate in the meeting pursuant to Rule 29.1 after giving verbal notice of their substitution to the Proper Officer