

## Part 4A: Council Procedure Rules

### Rule 1      General

#### Application and amendment of rules

- 1.1 These Procedure Rules shall apply to meetings of the Council and may only be amended or revoked by resolution of the 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 Mayor shall be guided in their construction and application of these Rules by those definitions and by the Monitoring Officer.
- 1.3 The headings and sub-headings do not form part of these Rules.
- 1.4 The ruling of the Mayor at a Council Meeting or otherwise as to the construction or application of any of these Rules shall not be challenged at any meeting of the Council.

#### Service of notice and documents

- 1.5 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

- 1.6 These Rules (subject to the exceptions in Rule 1.7 below) may be suspended by the Council but only to the extent permitted by law and only after the advice of the Monitoring Officer has been obtained.
- 1.7 The following Rules are not capable of suspension:  
[Rule 5 Motions on Notice](#)  
[Rule 14.6 Right to require individual vote to be recorded](#)  
[Rule 16 Prevention of Disorderly Conduct](#)
- 1.8 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 Meetings of the Council**

### **Date time and place of meetings**

- 2.1 Subject to any provision in these Rules, the time and place of Meetings will be determined by the Proper Officer after such consultations as they consider necessary and as notified in the summons for the meeting.
- 2.2 The dates of the Annual and Selection, Annual and Ordinary Meetings of the Council shall be fixed by the Council before the start of, or at the first Meeting (of any sort) in the new Municipal Year.
- 2.3 In a year when there is an ordinary election of Councillors, the Annual and Selection Meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting shall be held on a day as allowed by law and as fixed by the Council, but normally in the month of May.
- 2.4 If there is insufficient business to be transacted at a Meeting, or if an emergency or other event occurs, the Proper Officer may, after consulting such of the Mayor and the Group Leaders as can reasonably be contacted, vary any arrangement agreed by the Council under this Rule provided that specific public notice of the Meeting has not been given.

### **Annual and Selection Meeting**

#### **Order of Business**

- 2.5 The Annual and Selection Meeting will:
- (a) choose a Person Presiding if the Mayor and Deputy Mayor are absent;
  - (b) elect the Mayor (Council Chair) for the ensuing year (who will then take the chair);
  - (c) elect the Deputy Mayor (Council Vice-Chair) for the ensuing year;
  - (d) receive any declarations of interest from Members;
  - (e) approve as a correct record any minutes of the last or previous Meetings of the Council;
  - (f) receive any announcements from the Mayor or Head of Paid Service;
  - (g) elect the Leader for the ensuing four years if the Leader was not elected for four years at the previous Selection Council;
  - (h) establish at least one Overview and Scrutiny Committee, the Standards Committee and such other Committees as the Council decides for the ensuing two years, including their size, terms of reference and the allocation of seats between the Political Groups;
  - (i) appoint Councillors, on the nomination of the Political Groups, to the Committees of the Council;
  - (j) appoint substitute Members of Committees as is permitted by [Rule 10](#) of these Rules;
  - (k) if it so decides, elect the Chairmen and/or Vice-Chairmen of Committees for the ensuing two years;
  - (l) consider any business set out in the notice convening the meeting in the order set out in items (g) to (o) of Rule 2.8;

- (m) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

### **Term of appointments**

2.6 The Council may by resolution decide that the period for which a person is elected or appointed to any office or other position under Rules 2.5 (g), (h), and (k), is for a shorter period than two years.

### **Annual meeting**

#### **Order of Business**

2.7 The Annual Meeting will:

- (a) choose a Person Presiding if the Mayor and Deputy Mayor are absent;
- (b) elect the Mayor (Council Chair) for the ensuing year (who will then take the chair);
- (c) elect the Deputy Mayor (Council Vice-Chair) for the ensuing year;
- (d) receive any declarations of interest from Members;
- (e) approve as a correct record any minutes of the last or previous Meetings of the Council;
- (f) receive any announcements from the Mayor, the Leader or Head of Paid Service;
- (g) consider any business set out in the notice convening the meeting in the order set out in items (g) to (o) of Rule 2.8;
- (h) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

### **Budget and Council Tax Setting Meeting**

A Budget Meeting of the Council will take place in accordance with a programme decided by the Council and will be conducted in accordance with the Budget Protocol as set out in Annex A to these Council Procedure Rules.

### **Ordinary Meetings**

#### **Order of Business**

2.8 Ordinary Meetings will:

- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) approve as a correct record any minutes of the last or previous Meetings of the Council;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Mayor, the Leader, Cabinet Members or the Head of Paid Service;

- (e) receive questions from, and provide answers to, members of the public in accordance with these Procedure Rules;
- (f) receive questions from, and provide answers to, Members in accordance with these Procedure Rules;
- (g) deal with any business outstanding from the last Council meeting;
- (h) receive any petitions and deal with any Petitions under the Council's petition scheme
- (i) receive and consider reports and recommendations from the Cabinet, Leader or Cabinet Members, including consideration of proposals in relation to the Budget and Policy Framework ;
- (j) receive and consider reports, recommendations and minutes from Committees;
- (k) receive and consider reports about joint arrangements and external organisations;
- (l) receive and consider reports from Officers, including reports from the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer
- (m) consider motions;
- (n) consider any other business specified in the summons to the meeting;
- (o) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Mayor considers should be considered at the Meeting as a matter of urgency.

2.9 The order of business in Rule 2.8, other than items (a) to (f), may be varied by:

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

## **Extraordinary Meetings**

### **Calling Extraordinary Meetings**

2.10 The Proper Officer may call an Extraordinary Meeting of the Council at any time when they consider it appropriate.

2.11 The Proper Officer shall call an Extraordinary Meeting of the Council when requested to do so by:

- (a) the Mayor;
- (b) the Leader;
- (c) the Council by resolution;
- (d) the Standards Committee;
- (e) the Monitoring Officer, or
- (f) a majority of the Directors.

2.12 An Extraordinary Meeting may also be called under Schedule 12 of the Local Government Act 1972 by any five Members if they have signed a requisition and

presented it to the Mayor and they have either refused to call such a Meeting or has failed to do so within seven days after the requisition was presented to them.

## Order of Business

2.13 An Extraordinary Meeting will:

- (a) choose a person to preside if the Mayor and Deputy Mayor 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 Mayor considers should be considered at the Meeting as a matter of urgency.

2.14 The Mayor or the Proper Officer may include on the agenda of an Extraordinary Meeting such other business as they determine should be included for the efficient despatch of Council business.

2.15 An Extraordinary Meeting may approve any minutes of the last or previous Meetings of the Council.

### Rule 3 Quorum

3.1 The quorum of a Meeting will be one quarter of the whole number of Members on the Council at that time.

3.2 During any Meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then they must adjourn the Meeting either temporarily for not more than 15 minutes or to a time and date fixed by the Mayor.

3.3 If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

### Rule 4 Duration of meeting

4.1 Unless the majority of Members present vote for the Meeting to continue, any Meeting of the Council 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 Mayor. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

### Rule 5 Motions on notice

5.1 Except for motions which can be moved without notice under [Rule 13.24](#), written notice of every motion, signed by the Member or Members giving it and stating the names of proposer and seconder, must be delivered to the Proper Officer not later

than midday on the 7<sup>th</sup> Working Day before the date of the meeting. A motion on notice will be open to public inspection.

- 5.2 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraws it.
- 5.3 Motions must be about matters for which the Council has a responsibility or which affect Cheltenham.
- 5.4 A motion under this Rule shall only be moved by the Member by whom notice has been given or someone authorised in writing by such a Member.
- 5.5 A motion which purports to take, or which has the effect of taking an executive decision which cannot be taken by the Council shall, if passed, be of no effect and shall be referred to the Cabinet for consideration.

### **Dealing with Motions at Meetings**

5.6 The Chair (Mayor) will ask the meeting to decide whether:-

- (1) The Motion should be discussed at the meeting (although the Motion may only be discussed at the meeting if the Chair (Mayor) considers it convenient and conducive to the despatch of business and the Council considers that it has before it all the information and advice necessary to make a proper decision); or
- (2) To refer the matter without debate to Cabinet or a Committee for consideration and report back to Council as soon as practical.

If (1) is decided the relevant Councillor will be invited to propose the Motion and speak on it for no more than 10 minutes and the seconder will speak for no more than 5 minutes.

If (2) is decided the Councillor proposing the Motion will be permitted to briefly introduce the Motion.

5.2 If any item is added to the agenda after it has been published under Rule 5.1, the revised agenda shall be made available for public inspection from the time the item is added to the agenda. Where that item is the subject of a report, then the Proper Officer shall make such report available to the public as soon as it is completed and shall send the report to Members of the relevant Meeting.

### **Rule 6 Employees reporting directly to Council**

6.1 Where an Officer submits a report directly to Council (other than jointly with the Leader, a Cabinet Member or Committee Chair):

- (a) that report shall be treated as if it was the recommendation of a Committee the adoption of which had been formally moved and seconded and no further motion is required for it to be received and approved by the Council:

- (b) if an amendment is moved to the recommendation or recommendations in the report, the Mayor may, if they consider it appropriate, invite the Officer to reply to the amendment immediately before the question is put.

- 6.2 Where an Officer submits a written report directly to Council jointly with the Leader, a Cabinet Member or Committee Chair, the Member concerned, or, if they are absent, someone on their behalf, shall move the motion to receive and approve its recommendations and, if it is subject to an amendment, shall reply to the amendment immediately before the question is put. No seconder is required in moving the motion.
- 6.3 When the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or any other Officer is submitting a report to the Council in accordance with a statutory obligation, the Officer, or anyone on their behalf, shall have the right to address the Meeting and to answer questions arising from their report or the debate.

#### **Rule 7 Mayor (Council Chair)**

- 7.1 The Mayor shall preside at all Council Meetings at which they are present. If they are absent, or has resigned, the Deputy Mayor shall preside. If both of them are absent a Person Presiding shall be appointed under [Rule 8](#) and no business (other than the appointment of a Person Presiding) shall be transacted at that Council Meeting unless there is a Person Presiding.
- 7.2 The Mayor shall at their discretion take all such steps as they consider necessary to ensure the proper and orderly conduct of Council Meetings.
- 7.3 The ruling of the Mayor on any matter in relation to [Rule 13](#) (Rules of Debate) shall be final.
- 7.4 Where the Deputy Mayor or a Person Presiding is presiding over the meeting pursuant to Rule 7.1 they will assume all powers and duties of the Mayor for control and regulation of the meeting including the right to a second or casting vote.

#### **Rule 8 Appointment of person presiding**

##### **List of background papers**

- 8.1 For the purposes of appointing a Person presiding under Rule 7.1, the Proper Officer or the 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 have a second or casting vote.
- 8.2 The motion, and any amendments, shall be put to the Meeting in accordance with the normal rules for electing the Mayor or making appointments, as appropriate.

- 8.3 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 9 Previous decisions and motions**

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

- 9.1 Subject to Rule 9.3, a motion or amendment to rescind a decision made at a Council Meeting 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 15 Members.

### **Re-introduction of business**

- 9.2 Subject to Rule 9.3, no matter which has been decided by the Council in the same way twice within a period of twelve months shall again be submitted for the Council's consideration with a view to the decision being rescinded or varied until six months after the second of such decisions.

### **Exception**

- 9.3 Rules 9.1 and 9.2 do not apply where the matter is placed before the Council upon the recommendation of the Cabinet or a Committee or where the Monitoring Officer considers that for legal reasons or because of a material change of circumstances it is appropriate for the Council to reconsider the matter.

## **Rule 10 Appointment of substitute members of committees**

- 10.1 The provisions relating to substitutes shall be as set out in Rule 3 of the Committee Procedure Rules (Part 4C)

## **Rule 11 Minutes and reports**

### **Signing the minutes**

- 11.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting. They 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**

- 11.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an Extraordinary Meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972, the next following meeting (provided it is a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 and Rule 11.1 relating to signing of minutes.



## **Confidential and Exempt Information**

- 11.3 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 Council’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.
- 11.4 The Monitoring Officer shall investigate any alleged breach of Rule 11.3 and shall submit a report on the results of their investigation as appropriate to:
- the Standards Committee
  - an Ordinary or Extraordinary meeting of the Council
- within 21 days of their supplying a copy of the report to all Members.
- 11.5 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 Monitoring Officer once it has been decided to instigate an investigation and Members have been informed accordingly, until a report on the results of the investigation has been formally supplied to all Members.

## **Rule 12 Public and member questions**

### **General**

- 12.1 Any person living, working or studying in the Borough of Cheltenham, or a Borough Council elected Member may at Ordinary Meetings ask written questions of:
- the Mayor;
  - the Leader;
  - a Cabinet Member;
  - Chairmen of Committees

about any matter falling within the terms of reference of the Council body or Cabinet portfolio for which they are responsible other than, in relation to a Regulatory Committee, a question concerning an application to be considered or determined by that Committee.

### **Order of questions**

- 12.2 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**

- 12.3 Subject to Rule 12.4 and 12.4A below, a question may only be asked if notice has been given by delivering it to the Proper Officer no later than midday on the **7<sup>th</sup>** Working Day before the day of the meeting. Each question must: give the name and address of the questioner, identify the Member to whom it is to be put (reference to their title is sufficient, e.g Planning Chair, Cabinet Member Finance), confirm whether the questioner proposes to attend the Meeting.

## **Questions on item under discussion**

- 12.4 A Borough Council elected Member may ask the Leader or any Cabinet Member or the Chair of a Committee or the mover of a motion a question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or is under consideration by the Council subject to the Mayor (after consultation with the Proper Officer) being able to disallow a question if it falls within (b-e) of Rule 12.6 below.

## **Urgent Questions on items appearing on the agenda**

- 12.4A Where in the Mayors opinion a matter to be discussed is of significant public interest, they may, after consultation with the Leader, at their discretion, dispense with the 7<sup>th</sup> working day deadline referred to in 12.3 and accept questions on notice from both Council Members and the public up until 48 hours prior to the Meeting. For the avoidance of doubt where this discretion is exercised all other provisions relating to the submission of questions remain.

## **Number of questions**

- 12.5 No member of the public may submit more than two written questions (including sub-questions) to any one Meeting and no more than two questions (including sub-questions) may be asked on behalf of one organisation.

## **Scope of questions**

- 12.6 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 Council 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 Council in the previous six months; or
  - e) requires the disclosure of Confidential or Exempt information.
- 12.7 The Proper Officer will inform the Mayor together with the Leader, Cabinet Member or Chair as appropriate, of every question they reject and the reasons for rejection.

## **Record of questions**

- 12.8 The Proper Officer will ensure each question is open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.
- 12.9 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 Council Meeting.

## **Procedure at the Council Meeting**

- 12.10 The Mayor 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.
- 12.11 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 they are present or sent to them if they are 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**

- 12.12 A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 12.6 above.
- 12.13 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 Committee**

- 12.14 Unless the Mayor 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 or an appropriate Committee. Once seconded, such a motion will be voted on Without Comment.

## **Time for questions**

- 12.15 No more than 30 minutes shall be set aside at any Council Meeting for the posing and answering of questions under this Rule.
- 12.16 If any questions remain to be dealt with after the end of the 30 minute period, the Mayor may at their 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.

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

**Rule 13 Rules of debate** (See Motion Flow Charts – [Appendix A](#))

**Members to address the chair**

- 13.1 A Member shall speak only when called to do so by the Mayor. A Member shall address the Mayor only.

**Speaking**

- 13.2 For the purposes of inclusivity, Members can either stand or remain seated when addressing the meeting.

**Mayor standing**

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

**Members' Speeches**

- 13.4 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.

**No speeches until motion seconded**

- 13.5 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

**Secunder's speech**

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

**Content of speeches**

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

**Right to require motion in writing**

- 13.8 Unless notice of the motion (including an amendment) has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

## Questions in the Debate

- 13.9 Once a motion has been proposed and seconded the Mayor shall first allow questions to be put by Members under [Rule 12.4](#). The Mayor may in the interests of the efficient despatch of business limit:
- (a) the total number of questions;
  - (b) the number of questions to be put by one Member or by persons from a Political Group; or
  - (c) the time to be allowed for questions under this Rule.

## When a Member may speak again

- 13.10 A Member who has spoken on a motion or an amendment may not speak again whilst it is the subject of debate, except:
- (a) in exercise of a right of reply;
  - (b) except where an amendment is under discussion, to move an amendment in which case they shall not speak for more than three minutes;
  - (c) to speak to an amendment to it;
  - (d) on a point of order; and,
  - (e) with the consent of the Mayor, in personal explanation.

## Length of Speeches

- 13.11 The proposer of a motion and the mover of an amendment may speak for no more than 10 minutes when:
- (a) proposing the motion or moving an amendment; and
  - (b) replying to the debate immediately before it is put to the vote

unless the Council votes to allow them to continue.

No other speech shall last more than 3 minutes without the consent of the Meeting given Without Comment.

## Amendments to motions

- 13.12 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.

- 13.13 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.

- 13.14 If an amendment is not carried, other amendments to the original motion may be moved.
- 13.15 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.
- 13.16 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

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

- 13.19 A Member may without notice withdraw or alter a motion which they have moved with the consent of both the Meeting signified Without Comment and the seconder.

### **Right of reply**

- 13.20 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.
- 13.21 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.
- 13.22 The mover of the amendment has the right of reply to the debate on their amendment immediately before the final speech of the mover of the original motion.

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

- 13.23 When a motion is under debate, no other motion may be moved except a procedural motion under Rule 13.24.

### **Procedural Motions**

- 13.24 The following procedural motions may be moved without notice:
- (a) to elect in the event of a vacancy a mayor or Deputy Mayor 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 Committee or Member arising from an item on the summons for the Meeting;
  - (f) to receive reports of or adopt recommendations of Committees or Officers and any resolutions following from them;
  - (g) to make any decision arising out of or directly relevant to an item on the summons 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 consent to an extension of speech under Rule 13.11;
- (q) to suspend a Procedure Rule;
- (r) to exclude the public and press in accordance with the Access to Information Rules;
- (s) to not hear further a Member named or to exclude them from the meeting under Rule 18;
- (t) to give the consent of the Council where its consent is required by this Constitution.

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

13.25 If a procedural motion "to proceed to the next business" is moved and, seconded the Mayor must give -

- (a) where the original motion is being debated, the mover of that motion: and
- (b) where an amendment to the original motion is being debated, both the mover of that 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 will lapse.

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

13.26 If a procedural motion "that the question be now put" is moved and seconded and the Mayor considers that the item has been sufficiently discussed, they must put the procedural motion to the vote Without Comment. If the procedural motion is carried, the Mayor 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**

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

- 13.28 If a motion to adjourn the debate or meeting is carried the item under discussion or remaining business shall stand over as uncompleted business to the next Ordinary Meeting.
- 13.29 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**

- 13.30 A Member may raise a point of order at any time and the Mayor 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 they consider it has been breached.

### **Personal explanation**

- 13.30 A Member may, with the consent of the Mayor, 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 14A Restriction of members 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 Paragraph 10(4) 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 Voting**

#### **Majority**

- 14.1 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**

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



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

- 14.3 Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Mayor 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**

- 14.4 The vote will take place by secret ballot if seven Members at a Council Meeting demand it, provided that any Member who wishes to have the way their vote is cast recorded in the minutes of the Meeting may cast their vote under Rule 14.6 and not by ballot. The Mayor will announce the numerical result of the ballot immediately the result is known.

### **Recorded vote**

- 14.5 The vote will be recorded if seven Members at a Council 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**

- 14.6 Where any Member requests it, immediately after the vote is taken, their vote will, unless it is a recorded vote under Rule 14.5, be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **Voting on appointments**

- 14.7 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 Mayor 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.
- 14.8 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 Mayor shall have a second or casting vote
- 14.9 Where more than one person is required to be appointed by the Council 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.
- 14.10 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 15 Exclusion of the public**

15.1 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 16 (Disorderly Conduct).

## **Rule 16 Prevention of disorderly conduct**

### **Members**

16.1 If the Mayor is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or wilfully obstructing the business of the Council, they may notify the Meeting of that opinion, and may take any of the following courses, either separately or in sequence:

- (a) they may direct the Member to refrain from speaking during all, or part, of the remainder of the Meeting;
- (b) they may direct the Member to withdraw from all, or part, of the remainder of the Meeting;
- (c) they may direct that the Member be removed from the Meeting;
- (d) they may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.

16.2 A direction made under Rule 16.1 above may also be made by the Meeting on a motion proposed and seconded and put Without Comment.

### **The Public**

16.3 If a member of the public interrupts proceedings at any Meeting, the Mayor shall warn them. If they continue the interruption, the Mayor shall order them to leave the room where the meeting is being held. If they do not leave, the Mayor shall order them to be removed. If a member of the public persistently creates a disturbance, the Mayor may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.

### **General**

16.4 In the event of general disturbance in any part of the room where any Council Meeting is being held which is open to the public, the Mayor shall order that part to be cleared and may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.

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

## **Annex A**

### **BUDGET COUNCIL PROTOCOL**

#### **1. Legal Requirements**

- 1.1 The requirements of relevant legislation, particularly the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (referred to in this Protocol as "the Regulations") must be complied with.
- 1.2 The Regulations require the budget to be presented to Full Council by way of a recommendation from the Cabinet.
- 1.3 The budget proposal may be amended, see section 3. While an amendment can be quite wide ranging it is not permissible for a Member to introduce a different motion recommending a different budget. This would be contrary to the Regulations which require that the budget be recommended to the Council by the Cabinet.
- 1.4 Under Section 25 of the Local Government Act 2003 the Deputy Chief Executive, fulfilling the role of Chief Finance Officer, is under a statutory duty to report on the robustness of the budget estimates and the adequacy of the proposed financial reserves ("the Section 25 report") before the budget decision is taken. The Council must have regard to the Deputy Chief Executive's report before reaching a decision. This will apply to amendments as outlined in section 3.
- 1.5 A flowchart illustrating the procedure set out below is included as Annex A to this protocol.

#### **2. Procedure**

- 2.1 The procedure at Budget Council is governed by the Constitution.
- 2.2 The Cabinet recommendation on the budget will be proposed by the Cabinet Member with responsibility for Finance or by another Member of the Cabinet.
- 2.3 The budget proposer will introduce the budget (no time limit).
- 2.4 Members may then ask questions of the Cabinet Member with responsibility for Finance (who may refer them to the Chief Finance Officer or relevant Cabinet Member when appropriate). (N.B. there is no limit on the number of questions members may raise).
- 2.5 The Chair will then ask the largest opposition group if they wish to make a statement, which can include tabling but not moving any proposed amendment to the Cabinet's budget (no time limit).
- 2.6 The Chair will then ask the other opposition groups (in order of size) if they wish to make a statement, which can include tabling but not moving any proposed amendment to the Cabinet's budget (no time limit).

### **3. Amendments**

- 3.1 Amendments to the budget motion may have significant implications for the calculations used in producing the budget recommendation and for the level of Council Tax and/or the Council's reserves. Therefore, any Member wishing to move an amendment which affects any of the proposals in the budget recommendation to any material extent should provide a copy of the amendment to the Deputy Chief Executive as early as possible before the meeting, preferably at least 2 days before the meeting, but by no later than 3.00 p.m. on the day before the Council meeting.
- 3.2 The Deputy Chief Executive, may need to discuss any proposed amendment with Officers and will need to show the proposed amendment to the Monitoring Officer but otherwise, unless the proposing group gives their express authority to share the amendment with the administration, the Deputy Chief Executive guarantees absolute confidentiality in relation to any amendment received. The Monitoring Officer will also maintain this confidentiality.
- 3.3 The Section 25 report provisions apply also to any amendments which affect the estimates. The Section 25 report provisions do not, however, apply to an amendment which does not affect the estimates, such as an amendment to refer the matter back to the Cabinet for reconsideration. It should, however, be borne in mind that any resolution of the Council to refer the budget back to the Cabinet would result in Council being unable to set the budget. The budget as a whole would be returned to Cabinet for further consideration and come back to Council for a decision at a later date which may have cost implications for the Council in that it may cause a delay in the Council Tax billing process.
- 3.4 If an amendment to refer a recommendation back to the Cabinet is carried then it is likely that a special meeting of the Cabinet will be called early in the week following the Budget Council meeting, with the matter then being reported back to a special Full Council meeting later that week.
- 3.5 The largest opposition group will have the first opportunity to present budget amendments. The largest opposition group will have 10 minutes to present the amendment(s). The Secunder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.6 The other opposition groups, in order of size, will then have the opportunity to present budget amendments. The proposer will have 10 minutes to present the amendment(s). The Secunder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.7 Any Independent Members will then have 10 minutes to present amendments. The Secunder of the amendment will have 5 minutes to speak and may reserve their right to speak until later.
- 3.8 After all amendments have been presented, there will be the opportunity for points of clarification to be raised and responses given.

- 3.9 Once points of clarification have been dealt with there will then be a 20 minute adjournment of Council to allow Groups 20 minutes to consider the amendments.
  - 3.10 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, will address Council advising of any budget amendments which have been accepted by the Cabinet.
  - 3.11 The amendments not accepted by the Cabinet will then be debated in the order in which they were originally presented to Council.
  - 3.12 For any amendments which are not accepted, the Proposers of the amendments have the right to speak for 5 minutes each to sum up the debate.
  - 3.13 The Cabinet Member with responsibility for Finance, or other Cabinet Member if they introduced the budget proposals, has the final right of response before a recorded vote is taken on each amendment (10 minutes).
- 4. Return to the Substantive Budget Debate**
- 4.1 Once all of the amendments have been dealt with the final proposal will be debated and voted upon.
  - 4.2 Upon conclusion of the debate, the Cabinet Member with responsibility for Finance will have the final right of reply (10 mins).
  - 4.3 A recorded vote will be taken.



# **CHELTENHAM BOROUGH COUNCIL**

## **BUDGET SETTING PROCESS**

Last updated: 3 January 2025



