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Our reference:
Your reference:
Date: 16 November 2010

To all Members of the Council

Dear Councillor

A meeting of the PERFORMANCE MANAGEMENT BOARD will be held on Wednesday 24 November 2010 at 7.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

Head of Corporate Services

AGENDA

1. Apologies for absence
2. Declarations of Interest
3. Constitution Review

The report of the Constitution Review Member Panel is attached (pages 1 - 61).

4. Cabinet Call-In – Establishment of a Non Profit Distributing Arrangement for the Leisure Management Contract with Parkwood Leisure Ltd

The Performance Management Board are requested to consider a call-in request relating to a decision made by Cabinet at its meeting held on 9 November 2010.

Members are asked to consider the following attachments:

- a) A note setting out the order of the meeting is attached (pages 62 – 63).
- b) Copy of the report considered by Cabinet on 9 November 2010 is attached at Appendix A (pages 64 – 69).
- c) Copy of an extract of the Minute relating to this item is attached at Appendix B (page 70).
- d) Copy of the Call in request form is attached at Appendix C (pages 71 – 72).

Membership

Chairman: Councillor S Bennett

Vice-Chairman: Councillor D G Wheeler

Councillors Mrs S P Bailey, B Buschman, M M Champion, K A Khan,
A MacInnes, Mrs J M Marshall, J A Stockwood

Meeting Room Guidance

Fire Alarm - Evacuation - in the event of an alarm sounding you should evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

Toilets - Facilities, including those for the disabled, are located opposite Committee Room 2.

Mobile Phones – For the benefit of other users please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones - When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

REPORT OF THE CONSTITUTION REVIEW MEMBER PANEL

Summary

This report brings together the issues identified by the review and the areas for amendment agreed by the Panel in order that they are considered by the Performance Management Board prior to submission to Cabinet and Council.

Recommendation

The Member Panel recommends to the Performance Management Board:

- A) the amendments to the Council's Constitution set out within the following draft documents:
- Part 1 - Summary and explanation – **Appendix 1**
 - Part 2 - Articles 1 to 16 – **Appendix 2**
(Only Articles 1, 2, 3, 4, 5, 6, 9, 13, 14 and 15 have been amended. As there are no changes to Articles 7, 8, 10, 11, 12 and 16 these are not included in appendix 2)
 - Part 4 – Rules of Procedure – Council Procedure Rules only – **Appendix 3**
 - Part 4 – Rules of Procedure – Overview and Scrutiny Procedure Rules (from Paragraph 16 (Call-in) onwards only) – **Appendix 4**
(Note: The amended text is underlined within the text of each appendix but not in appendix 4 as this is replacement text)
 - Part 3 – Responsibility for functions recommendation C (ii) below sets out the proposal that a separate review of this to be undertaken.*
 - Part 5 – Codes and Protocols and Part 6 – Members Allowances are not included as no changes have been proposed.*
- B) that it considers whether to recommend the introduction of a public questions facility to Cabinet,
- C) that the Head of Corporate Services be requested to review (i) the terms of reference for the Employment Appeals Committee and the Officer Employment Procedure Rules, Part 4 – Rules of Procedure and (ii) Part 3 – Responsibility for functions and Article 12 – Officers; and report the findings of these reviews to the necessary Council Committees.
- D) that the Member Development Group be asked to consider the Member Panel's report in order to determine areas where training and development would assist in increasing awareness and understanding of the revised Constitution and its operation.

Details

1. The Member Panel met on four occasions to undertake the review. At each meeting the Panel considered areas for revision and amendment under the headings of:
 - Inclusion of new legal duties and revisions in line with further guidance
 - Practical aspects that have caused difficulties in the past, clarity of wording and legal anomalies

2. In summary the key areas that the review focused on are:
 - Revisions to the Council procedure rules including clarity regarding scope of questions and motions and submission deadlines
 - The possible introduction of public questions at full Council meetings
 - Revisions to the scrutiny call-in procedure
 - The future role of the Employment Appeals Committee
 - The need for a review of the Scheme of Delegation with this being presented to a future meeting of Cabinet and Council for agreement
 - The format and content of the Forward Plan and Cabinet reports

3. The substantial areas of review and revision considered by the Panel are set out as follows:
 - a) **Council Procedure Rules – Part 4 Rules of Procedure**

The draft text for the revised Council procedure rules is set out at **Appendix 3** of the report. This issue has been considered by the Panel on three occasions and the draft text aims to replace the existing section. In summary the proposed changes relate to guidance to provide clarity in relation to the use of substitutes, the submission requirements for questions and motions, reducing the number of supplementary questions to one with clearer guidance on relevance and ensuring the rules reflect the Council's agreed petitions scheme.

 - b) **Overview and Scrutiny Procedure rules – Call-in – Part 4 Rules of Procedure**

The text for the revised Scrutiny Call-in rules is set out at **Appendix 4**. This was considered by the Panel on two occasions and the draft text replaces the existing words from Paragraph 16 onwards. In summary the changes relate to the call-in request form, evidencing which of the decision making principles have been breached and the timescale for the call-in to be heard. Furthermore the changes will enable valid call-in requests to be considered by the most appropriate Scrutiny Group and not solely by the Performance Management Board.

 - c) **Process for changes to the Constitution**

When looking at Article 15 – Review and Revision of the Constitution, the Member Panel agreed that this should fall within the role and remit of the Corporate Governance Group prior to the Cabinet and Council approval process. As such Article 15 within Part 2 of the Constitution has been revised to reflect this. Provision has also been made for the minor amendments to be made to the document by the Head of Corporate Services in consultation with the Chief Executive within some set definitions, agreed by the Panel, to clarify what a 'minor revision'

would be. These amendments are set out within appendix 2 of the report.

d) **Public questions**

The introduction of a public questions facility at meetings of the full Council has been considered in detail by the Panel at its meetings in August, September and October. The Panel discussed and considered how such a facility operates at other Councils and the text that would need to be inserted in the Constitution to accommodate such a facility if it were introduced. A copy of this draft text is attached as **appendix 5**.

At its meeting on 1 September the Member Panel considered a list of 14 Councils from across Nottinghamshire and the adjoining area, which showed if they had a public questions facility in place. The Panel also considered 27 responses to an electronic survey sent to over 30 local authorities in order to evaluate the effectiveness of such a facility. Copies of these documents are attached as **appendix 6A and 6B**.

Having considered the information presented to it the Member Panel was unable to reach an agreed view on the issue of the introduction of a public questions facility at meetings of the full Council. Recommendation 'B' within the report reflects this and the Board are asked to consider whether to recommend the introduction of a public questions facility to Cabinet.

e) **Employment Appeals Committee**

As part of the review the Member Panel considered the role of the Employment Appeals Committee at its meetings on 1 September and 6 October. It also considered the Committee's terms of reference recognising how these were too far reaching and beyond what was originally expected, particularly as they included grievances and grading matters which were covered by established internal procedures. Furthermore the role and remit of the Committee was in direct contradiction of the scheme of delegation which gives power on all staffing matters including recruitment and dismissal to the Chief Executive. The Member Panel also considered and discussed the appropriateness of Members being involved with employment matters, the delay in setting up meetings of the Committee, the external appeal mechanism to an Employment Tribunal, the ACAS¹ Code of Practice introduced in April 2009 and alternative internal arrangements for such appeals to senior officers.

In view of its discussions regarding the Employment Appeals Committee the Member Panel recognised that its terms of reference should be reviewed and requested that this be undertaken as a separate piece of work following the conclusion of the review of the Constitution. This is reflected in recommendation C (i) of the report.

¹ Advisory, Conciliation and Arbitration Service – which aims to improve organisations and working life through better employment relations

f) **Other areas which have been revised**

As part of the review process there were others areas where the Member Panel considered and recommended amendments. These are reflected in **appendices 1, 2, 3 and 4** of the report and in summary these are:

Part 1

Summary and explanation – *This has been brought up to date in order that it accurately reflects the present Scrutiny arrangements and the rights of citizens in respect of petitions and complaints.*

Part 2

Article 2 – Members of the Council – *this section has been amended in order that the Councillor Role profiles agreed by the Member Development Group form part of the ‘Job Profiles’ for non executive members. This supports the work being undertaken to achieve Member Development Charter Accreditation which requires such profiles to reflect the roles of Members as community leaders and the skills required.*

Article 3 – Citizens and the Council – *as set out at paragraph eight of this report the Panel were unable to reach an agreed view on the introduction of a public questions facility at meetings of full Council. If the Performance Management Board were to recommend such a facility be introduced then this section would need to be amended to reflect this. This section has been amended to reflect the rights of citizens in respect of the agreed petitions scheme the Council now has in place.*

Article 6 – Scrutiny Committees – *changes have been made to ensure this Article reflects the present Scrutiny arrangements. Additionally these changes reflect the Panel suggestion that the process for monitoring and reviewing the operation of the Constitution should fall within the remit of the Corporate Governance Group.. The changes to this section also ensure it reflects scrutiny’s role in relation to a revised call-in procedure, the establishment of Member Panels and the Councillor Call for Action process.*

Article 9 – Standards Committee – *minor revisions have been made to this to ensure its role reflects what is said in the Council’s agreed Members’ Complaints procedure.*

Article 12 – Officers – *the review highlighted that this section did not reflect the current structure of the organisation and as such the Member Panel suggested that this required revision. Because this Article links closely with the scheme of delegation as set out at ‘Part 3 – Responsibility for Functions’ in the Constitution it is recommended that it be revised when Part 3 is reviewed as per Recommendation C (ii) of the Member Panel.*

Article 13 – Decision Making – *the review highlighted that further guidance would be helpful in relation to the definition of a key decision. Therefore text has been added to assist in the definition of a ‘significant’ effect in terms of its effects on communities living or working in any wards or electoral divisions in the area of the local authority. This is highlighted as underlined text at paragraph 13. 3 of Article 13, contained within **appendix 2** of the report.*

Part 3 – Responsibility for functions - *The review highlighted that the scheme of delegation as set out in this part of the Constitution was out of date and not in line with the Council’s structure. As such recommendation*

C (ii) of the Member Panel suggests that a review of the scheme of delegation should take place as a separate piece of work. As set out in the previous paragraph on 'Article 12 – Officers' a review of this Article should also form part of the review of the scheme of delegations to ensure accuracy and consistency.

Part 4 – Rules of Procedure

Access to information – *This part of the review highlighted that the Forward Plan required some revisions so that it was more detailed, giving a clearer indication of the business of the Council's Cabinet. Furthermore revisions to the Forward Plan should support changes to the Cabinet report format in order that it was more in line with the legislative requirements and worked to inform scrutiny work programmes. This review should ensure that revised versions are in place by June 2011.*

Risk and uncertainties

4. The review process identified that the Constitution had not been reviewed or revised for some time, and as such it did not reflect legislative requirements or how the Council worked. Whilst the review process will help to address many of these issues the changing nature of local authority business means that issues may arise in future as the document evolves. As such the review process has evidenced an effective method for dealing with future revisions.
5. The review process also helped to highlight the need to ensure the Constitution provides effective processes for the Council's decision making, giving due regard to transparency, accountability and the rights and expectations of residents.

Financial Comments

There are no direct financial implications arising from this report.

Section 17 Crime and Disorder Act

Having a modern Constitution which is fit for purpose and reflective of local and national expectations supports delivery of the Council's duty to prevent crime and disorder by ensuring the legality and effectiveness of its decision making process.

Diversity

There are no direct equality and diversity implications arising from this report. However in order for the Council to effectively fulfil its obligations and expectations with regard to diversity and equality it is essential it has a modern and robust Constitution enabling engagement from all sections of the community.

Background Papers Available for Inspection:

Rushcliffe Borough Council Constitution

Local Government & Public Involvement in Health Act 2007

Local Democracy, Economic Development and Construction Act 2009

SUMMARY AND EXPLANATION

The Council's Constitution

The constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles, which set out the basic rules governing the Council's business.

More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 sets out the purpose of the Constitution, which is aimed at providing efficient, transparent and accountable decision-making and commits the Council to maintain close links with the people we serve, listening and responding to the views and needs of our citizens and customers, and speaking on behalf of the people of Rushcliffe on issues which impact on our community. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The executive (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee (Article 9).
- Area Consultation Arrangements (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

How the Council Operates

The Council is composed of 50 Councillors elected every four years. Councillors are democratically accountable to the residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will appoint the Leader who will select the members of the Cabinet.

The Cabinet is responsible for most day-to-day decisions and is made up of the Leader and five other Members appointed by the Leader.

When decisions are to be discussed or made [by Cabinet](#), these are published in the [Council's](#) forward plan in so far as they can be anticipated. Meetings of the Cabinet are open to the public to attend except where exempt or confidential matters¹ are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the Council as a whole to decide. Decisions of the Cabinet will be subject to scrutiny through the Scrutiny Groups appointed by the Council and also a call-in procedure referred to below.

Overview and Scrutiny

The Council has reviewed its scrutiny arrangements several times since the introduction of the concept in the Local Government Act 2000. The current arrangements were approved by Council in April 2007 following the publication of the Government White Paper – "Strong and Prosperous Communities"

They now comprise two 'backward looking' groups, the Performance Management Board responsible for performance monitoring and the Corporate Governance Group responsible for governance; and two 'forward looking' groups, known as [the Community Development Group and the Partnership Delivery Group](#).

The scrutiny process allows citizens to have a greater say in Council matters by considering matters of local concern. It can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Scrutiny committees also monitor the decisions of the Cabinet.

Members can 'call in' a decision, which has been made by the Cabinet but not yet implemented. This enables the scrutiny committee to consider whether the decision is appropriate. Scrutiny committees may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

¹ Access to Information – these are contained within Part 4 section 10.4 of this constitution

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, they have additional rights which may be set out in statute or regulations. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, Cabinet, Scrutiny Committees and other Committees except where exempt or confidential matters are being discussed;
- petition to request a referendum on a Mayoral form of executive;
- present a petition to the Council [in line with the Council's agreed Petitions Scheme](#)
- contribute to issues under consideration by the Scrutiny Committees through the consultation process;
- find out, from the [Council's](#) forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council if they are dissatisfied with the service they receive [in line with the Council's published Customer feedback procedure](#).
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the [Council if they](#) have evidence which they think shows that a Councillor has not followed the Council's Code(s) of Conduct [in line with the Council's published Members' Complaints Procedure](#); and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the Rushcliffe Borough Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create an effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

(a) Composition

The Council comprises of 50 members, otherwise called Councillors. Between one and three Councillors are elected by the voters for the 28 wards in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State. Information about the wards and the elected members for each ward can be obtained from the Council's Democratic Services Manager and is also available on the Council's website www.rushcliffe.gov.uk

(b) Eligibility

Only registered voters of the Borough or those living or working in the Borough will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

Election and terms

The regular election of Councillors will be held on the first Thursday in May every four years. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next ordinary election.

2.3 Roles and functions of all Councillors

(a) Key roles

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) act in the best interests of the Rushcliffe community as a whole
- (iii) be available to represent the Council on other bodies;
- (iv) maintain the highest standards of conduct and ethics;
- (v) effectively represent the interests of their ward and of individual constituents;
- (vi) respond to constituents' enquiries and representations, fairly and impartially;
- (vii) participate in the governance and management of the Council.

(b) Job profiles

(i) Cabinet Member

Purposes:

1. To participate constructively in the good governance of an area and to provide strategic leadership.
2. To contribute actively to the formation of the authority's policies, budget, strategies and service delivery.
3. To represent effectively the interests of the ward for which the councillor was elected, and deal with constituents' enquiries and representations.
4. To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equity, economy and environment.
5. To represent the Council on an outside body, if appointed.
6. To ensure that the Authority successfully discharges its overall responsibilities.

Key Tasks:

1. To fulfil the statutory and locally determined requirements of an elected member of a local authority and the authority itself, including compliance with all relevant codes of conduct, and to participate in those decisions and activities reserved to the full Council.
2. To participate effectively to the decision-making process as a member of the Cabinet.
3. To participate effectively as a member of any committee or group to which the councillor is appointed, and to liaise with other public bodies to promote better understanding and partnership working.
4. To participate in the activities of any outside body to which the councillor is appointed, providing two-way communication between the organisations. Also for this purpose, to develop and maintain a working knowledge of the authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and functions.

5. To participate, as appointed, in any area and service-based consultative processes with the community and with other organisations.
6. To represent the authority to the community, and the community to the authority, through the various fora available.
7. To develop and maintain a working knowledge of the Authority's services, management arrangements, powers/duties, and constraints, and to develop good working relationships with relevant officers of the Authority.
8. To develop a working knowledge of the organisations, services, activities and other factors which impact upon the community's well-being and identity.
9. To contribute constructively to open government and democratic renewal through active encouragement of the community to participate generally in the government of the area.
10. To participate in the activities of any political group of which the councillor is a member.

(ii) **Non-Executive Councillor**

Purposes:

1. To participate constructively in the good governance of an area.
2. To contribute actively to the formation and scrutiny of the Authority's policies, budget, strategies and service delivery.
3. To represent effectively the interests of the ward for which the councillor was elected, and deal with constituents' enquiries and representations.
4. To champion the causes which best related to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equity, economy and environment.
5. To represent the Council on an outside body, if appointed.

Key Tasks:

1. To fulfil the statutory and locally determined requirements of an elected member of a local authority and the authority

itself, including compliance with all relevant codes of conduct, and to participate in those decisions and activities reserved to the full Council.

2. To participate effectively as a member of any committee or group to which the councillor is appointed, and to liaise with other public bodies to promote better understanding and partnership working.
3. To participate in the activities of any outside body to which the councillor is appointed, providing two-way communication between the organisations. Also for this purpose, to develop and maintain a working knowledge of the Authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and functions.
4. To participate in the scrutiny or performance review of the services of the Authority including where the Authority has so decided, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Authority.
5. To participate, as appointed, in any area- and service-based consultative processes with the community and with other organisations.
6. To represent the Authority to the community, and the community to the Authority, through the various fora available.
7. To develop and maintain a working knowledge of the Authority's services, management arrangements, powers/duties, and constraints, and to develop good working relationships with relevant officers of the Authority.
8. To develop a working knowledge of the organisations, services, activities and other factors which impact upon the community's well-being and identity.
9. To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
10. To participate in the activities of any political group of which the councillor is a member.

Skills:

As Community Leaders:

1. Build effective relationships with all sections of the community so as to represent their views to the Council
2. To engage all sections of the community to learn and act upon issues of local concern
3. Seek opinion and new ways of representing others
4. Keep up to date with issues of concern
5. Speak for all sections of the community and work with partners
6. Mediate fairly in the community and campaign on behalf of others
7. To undertake casework for constituents and act as an advocate in resolving concerns
8. To contribute to the debate at full Council meetings
9. To represent the Council to the community and the community to the Council
10. To represent the Council on outside bodies and to participate effectively in the appointed role, and where appropriate, to represent those bodies within Rushcliffe
11. To participate in the activities of any political group of which you are a member.

In Partnership

1. To be aware of the needs of other partners, eg Police,
2. To use influence as an elected representative to develop links between groups and communities in the Ward and local area
3. To forge local partnerships to ensure resources are used to meet the needs of the area
4. To work with Parish Councils taking into account the differences between rural and urban communities

General

1. To fulfil the legal and local requirements placed on an elected member, in accordance with the Member Code of Conduct and the officer/member protocol
2. To be responsible for your own personal development and undergo appropriate development and continuous improvement for any role undertaken.
3. Ability to lead and champion the interests of the local community
4. Influencing and persuading, managing conflict and mediation
5. Ability to chair meetings and facilitate discussions
6. Develop relationships with key officers and partner agencies

Communication

1. talk and listen sensitively to people in the community
2. develop a positive relationship with the local media
3. provide information about Council decisions
4. use 'plain' English – both written and spoken
5. public speaking and presentation skills
6. be realistic about what can be achieved

Knowledge

1. how the Council works
2. Council structure, key contact officers, services and procedures
3. Code of Conduct for Councillors and member/officer protocol
4. decision making process
5. strategic priorities and key policies of the Council
6. local government finances and audit process
7. Council's complaints procedure
8. Understanding of legislation and Council policies which Councillors must follow, eg Freedom of Information, Data Protection, equality legislation
9. impact of national policies on the Council
10. basic understanding of local government finances and audit processes

Political understanding

1. to act ethically, consistently and with integrity when communicating values or representing political group views in decisions and actions
2. to work across group boundaries without compromising values or ethics
3. to work as a team player part of a wider team
4. recognise the achievements of others

(c) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) Councillors will abide by the Councillor : Staff Protocol and the provisions within it

2.4 **Conduct**

Councillors will at all times observe the Members' Code of Conduct set out in Part 5 of this Constitution. They will also comply with the Council's Councillor : Staff Protocol.

2.5 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

(a) Voting and petitions

Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution. Citizens can also [submit petitions to the Council in line with the Council's published Petitions Scheme which is available on the Council's website or from the Democratic Services Manager.](#)

(b) Information

Citizens have the right to:

- (i) attend meetings of the Council, Cabinet, Scrutiny Committees, committees and other member groups, except where confidential or exempt information is likely to be disclosed;
- (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(c) Participation

Citizens have the right to present petitions to the Council [in line with the Council's published Petitions Scheme](#) and contribute to issues under consideration by Scrutiny Committees through the consultation process.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints procedure;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) [To the Council](#) about a breach of the Councillors' Code of Conduct [in line with the published Members' Complaints procedure.](#)

3.2 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

ARTICLE 4 – THE FULL COUNCIL

4.1 Meanings

(a) Policy Framework

The policy framework means the following plans and strategies:-

- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Development Plan Documents

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader
- (e) approving the delegation scheme, including delegation of executive functions;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies;

- (h) adopting an allowances scheme under Article 2.5;
- (i) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (j) confirming the appointment of the head of paid service; [the S151 Officer and the Monitoring Officer in line with Part 4, Rules of Procedure, Officer Employment Procedure rules](#);
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (m) all other matters which, by law, must be reserved to Council.

4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.4 Responsibility for functions

Responsibilities for the Council's functions, which are not the responsibility of the Cabinet [as](#) set out in Part 3 of this Constitution.

ARTICLE 5 – CHAIRING THE COUNCIL

5.1 Role and function of the Mayor

The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions:

- Representing the Council through his/her civic role
- Chairing Council meetings

The Mayor will be elected by the Council annually and will have the following responsibilities:

- a) to attend such civic and ceremonial functions as the Council and he/she determines appropriate;
- b) to uphold and promote the purposes of the Constitution;
- c) to preside over meetings of the Council so that
 - i) its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community and
 - ii) proceedings comply with the Council Procedure Rules, Part 4 Rules of Procedure;
- d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet members and committee Chairmen to account.

ARTICLE 6 – SCRUTINY COMMITTEES

OVERVIEW AND SCRUTINY – GENERAL COMMENTS

6.1. Terms of Reference

The Council has appointed the following Scrutiny Committees under section 21 of the Local Government Act 2000, with the terms of reference set out in paragraphs 6.3 to 6.9 below;

Performance Management Board
Corporate Governance Group
[Community Development](#) Group
Partnership Delivery Group

6.2 The role of scrutiny committees is further explained in paragraphs 6.7 and 6.8 below.

6.3 Performance Management Board

To act as the Council's principal scrutiny committee in respect of the scrutiny of performance, including –

- Performance monitoring
- Service performance and effective use of resources
- Complaints.

6.4 Corporate Governance Group

The terms of reference of the Group include -

Statement of Accounts:

- To examine the outturn and statement of accounts, making comments and recommendation to Council.

Report on Code of Corporate Governance:

- To consider the annual report on compliance with the Council's Corporate Governance Code and making recommendations to Cabinet on improvements/changes in practice and acceptance of a draft Statement.
- Be designated with responsibility for the Governance of the Council (*as per Council recommendation on 28 June 2007 minute 17*)

Report on Statement of Internal Control:

- To consider the annual report on application of the Council's system of internal control and making recommendations to Cabinet on

improvements/changes in practice and acceptance of a draft Statement.

Annual Treasury Management Activity report:

- To consider the annual report on Treasury Management activity and ensure that practice has complied with the approved Treasury Management strategy, making comments to Cabinet as appropriate.

Fraud and Irregularities:

- To consider the annual report on fraud and irregularities in support of making an informed judgement in respect of the corporate governance and internal control statements, making recommendations to Cabinet on improvements.
- To consider any matters arising as a result of irregularity referred to it by Cabinet.

Capital and Revenue budget monitoring:

- To consider regular reports on progress against the revenue and capital budget, making recommendations to Cabinet on matters requiring its approval and where progress is considered to be unsatisfactory.

Periodic reports on the findings of Internal Audit/due diligence/controls over key risk areas:

- To consider periodic reports on the more significant findings of internal audit in support of making an informed judgement in respect of the corporate governance and internal control statements, making recommendations to Cabinet on improvements.
- To consider periodic reports on controls over key risk areas as identified in the risk register in support of making an informed judgement in respect of the corporate governance and internal control statements, making recommendations to Cabinet on improvements.

[Monitor and review the operation of the Constitution](#)

- [To monitor and review the operation of the Constitution in line with Article 15, Review and Revision of the Constitution, Part 2 Articles of the Constitution.](#)

6.5 Community Development Group

The terms of reference of this Group include policy scrutiny relating to –

- Community priorities and solutions
- Engaging and identifying needs of other groups

- Building relationships to ensure policies are developed to empower and not constrain
- Reputation management through promotion, delivery and communication
- Town and parish council shared working (identifying opportunities whilst establishing priorities)

6.6 Partnership Delivery Group

The terms of reference of this Group include –

- Driving forward existing partnerships
- Helping to bring partnership working into the Council's mainstream work
- Bringing together partners within the public sector for the benefit of the community
- Developing an approach to future partnership working with both the public and the private sector

6.7 General Role

Within their terms of reference, Scrutiny Committees will –

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in decisions made but not yet implemented by the Cabinet [as set out within the 'Call-in' section, Overview and Scrutiny procedure rules, Part 4, Rules of procedure.](#)

6.8 Specific functions

(a) Policy development and review

Scrutiny Committees may:

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) [establish task and finish Member Panels focusing on particular areas of policy development and review with a view to making recommendations to the Council's Cabinet when necessary;](#)
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;

- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Cabinet and/or committees and executive and borough officers about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

Scrutiny Committees may:

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and Council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Cabinet and/or committees and senior managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and
- (iv) question and gather evidence from any person (with their consent);
- (v) deliver the 'Councillor Call for Action (CCFA)' process in line with the CCFA protocol as set out at Part 5, Codes and Protocols.

6.9 Proceedings of Scrutiny Committees

Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 9 – THE STANDARDS COMMITTEE

The composition and quorum of local authority Standards Committees are governed by Section 53 of the Local Government Act 2000 and the Relevant Authorities (Standards Committee) Regulations 2001.

9.1 Standards Committee

The Council meeting will establish a Standards Committee.

9.2 Composition

(a) Membership

The Standards Committee will comprise:

- six Councillors (other than the Leader);
- three persons who should not be a Councillor or an officer of the Council or any other body having a standards committee (independent members);
- at least one member of a parish council wholly or mainly in the Council's area (a parish member);

(b) Independent members

Independent members will be entitled to vote at meetings;

(c) Parish members

A Parish member must be present when matters relating to those parish councils or their members are being considered;

(d) Chairing the Committee

A member of the Cabinet may not chair the Committee.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;

- (e) advising, training or arranging to train the Councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) [dealing with complaints about Councillors in line with the Council's published Members Complaints procedure which can be viewed on the Council's website](#)
- (h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an ethical standards officer to the Monitoring Officer.
- (i) the exercise of (a) to (g) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.
- (j) considering any reference to the Committee by the Chief Executive pursuant to paragraph 10 of the Members' Allowance scheme relating to the failure of a member to attend any meeting during a period of three months, with power to suspend the payment of allowances under the scheme to the member concerned, unless the reasons for non-attendance are approved by the Committee.

ARTICLE 13– DECISION MAKING

13.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3, [Responsibility for Functions](#), of this Constitution.

13.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) the record of any decision will include an explanation of the options which were considered and giving the reasons for the decision in accordance with the requirements of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

13.3 Types of decision –

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.2, [Article 4, The Full Council](#), will be made by the full Council and not delegated.
- (b) Key decisions.
 - (i) The regulations define a key decision to mean an Executive decision [taken by Cabinet](#) which is likely –
 - (A) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;

For this purpose significant expenditure or savings shall mean –

Revenue: Any contract or proposal with an annual payment of more than £100,000.

Capital: Any capital project with a value in excess of £250,000.

or

- (B) to be significant in terms of its effects on communities living or working in any wards or electoral divisions in the area of the local authority.

For the purposes of the Constitution, the Cabinet may determine that a decision, which will have a significant impact on only one ward, shall be regarded as a key decision.

In determining whether a decision is significant in terms of its effect on communities consideration should be given to:-

- the number of residents/service users that will be affected in the wards concerned;
- whether the impact is short term, long term or permanent;
- the impact on the community in terms of the economic, social and environmental well-being.

- (ii) A key decision may only be taken in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4, Rules of Procedure, The Cabinet, Procedure Rules of this Constitution.

13.4 **Decision making by the full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.5 **Decision making by the Cabinet**

Subject to Article 13.8, the Cabinet will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.6 **Decision making by Scrutiny Committees**

Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.7 **Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.8 **Decision making by Council bodies acting as tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

ARTICLE 14– FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

14.2 Contracts

- (a) Every contract which exceeds £50,000 in value or amount shall be under the Common Seal of the Council.
- (b) Every contract not required to be under the Common Seal of the Council under the preceding Standing Order shall be in writing and signed by the Executive or Borough Officer concerned or a nominated senior member of his staff.
- (c) The Common Seal of the Council shall be kept in a safe place in the custody of the Senior Solicitor. A decision of the Council, or any part of it, will be sufficient authority for sealing any document to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Borough Solicitor should be sealed.
- (d) The Seal shall be attested by the following persons present at the sealing, viz., the Mayor or Deputy Mayor of the Council or other member of the Council, and the Chief Executive, [the Head of Corporate Services or Senior](#) Solicitor or Legal Services Manager, and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the seal.

ARTICLE 15– REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the Constitution

The [Corporate Governance Group](#) will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

15.2 Changes to the Constitution

(a) Approval

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the [Corporate Governance Group](#).

(b) Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

15.3 Minor amendments

The Monitoring Officer, in consultation with the Chief Executive is authorised to make minor amendments to the Constitution. When determining if an amendment is 'minor' the following factors must be considered:

Does the amendment:: _____

- substantially depart from original arrangements
- materially affect the decision making process
- change any delegations, responsibilities or duties
- need to be done to support delivery of the Council's priorities

RULES OF PROCEDURE

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

The Annual Meeting of the Council will be held at such places, on such dates and at such times as may be fixed by the Council, subject to any statutory requirements as set out below.

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) receive any declarations of interest;
- (ii) elect a person to preside at the annual meeting if the Mayor or Deputy Mayor is not present;
- (iii) approve the minutes of the last meeting;
- (iv) Receive an address from the outgoing Mayor;
- (v) elect the Mayor;
- (vi) elect the Deputy Mayor;
- (vii) receive any announcements from the Mayor,
- (viii) elect the Leader and Deputy Leader (if appointed);
- (ix) appoint at least one Scrutiny Committee, a Standards Committee and such other committees or Member Groups as the Council considers appropriate and to deal with matters which are neither reserved to the Council nor are executive functions;
- (x) appoint the Chairmen and Vice-Chairmen of committees and Member Groups;
- (xi) appoint representatives to outside bodies, unless previously appointed by the Council;
- (xii) agree the scheme of delegation or any amendments
- (xiii) approve a calendar of meetings for the year, if not previously approved by the Council; and
- (xiv) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which Committees or Member Groups to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees or Member Groups;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;

- (iv) receive nominations of Councillors to serve on each Committee and Outside Body; and
- (v) appoint to those Committees and Outside Bodies.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with the calendar of meetings approved by the Council. Ordinary meetings will:

- (i) receive any declarations of interest from Members;
- (ii) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (iii) approve the minutes of the last meeting;
- (iv) receive any announcements from the Mayor, Leader, Members of the Cabinet or the Head Of Paid Service;
- (v) receive petitions in accordance with Rule 10 and the Council's Petition Scheme
- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (viii) receive and consider reports from Officers of the Council;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations (if any);
- (x) consider motions; and
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Scrutiny Committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

-- **PUBLIC QUESTIONS**

If it is recommended that a public questions facility be implemented then the text as set out in 'public questions' protocol will need to be inserted. Renumbering of subsequent paragraphs will be required to reflect this.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1 Whenever an appointment of a Member of a Committee or Member Group is 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, then the Chief Executive shall make or terminate such appointment accordingly. The wishes of the Political Group shall be given in writing to the Chief Executive.

Provided that the Chief Executive shall not be required to give effect to a request to terminate an appointment for any particular Committee, unless the wishes of the Group are notified in writing to him no later than the starting time of that meeting of the Committee.

4.2 Substitute Members

Substitute Members are permitted in line with the following protocol which sets out:

- Meetings when substitute members are not permitted
- Meetings when they are permitted
- How to decide if substitutes are permitted at newly established Committees or Groups or Panels
- The requirements of the Group Leaders or Whips
- The requirements of the Monitoring Officer and the Democratic Services Manager
- The process for replacement members

4.3 Substitutes are not permitted at:

Council
Cabinet
Alcohol and Entertainment Licensing Committee
Licensing Committee
Standards Committee

4.4 Substitutes are permitted at:

Performance Management Board
Community Development Group
Partnership Delivery Group
Corporate Governance Group
Development Control Committee*

Local Development Framework Group¹ (subject to exclusions as set out at point 4.5)

Member Development Group

Employment Appeals Committee* (subject to changes to the Committee's role and remit)

Interviewing Committee*

* subject to appropriate training

4.5 Factors to determine if substitutes are permitted at Member Groups or Panels

Cabinet or Scrutiny Groups when commissioning a Member Group or Panel will determine if substitutes are to be permitted at its meetings taking into account:

- the purpose of the Group or Panel and if it is 'task and finish' based (looking at a particular issue over a specific time with a view to making some recommendations)
- the anticipated timescale for the Group or Panel's work
- its terms of reference
- continuity of debate
- consistency of approach
- best use of expertise
- that material already dealt with does not have to be reconsidered

4.6 The requirements of the Group Leaders, Deputy Leaders and /or Whips

If substitutes are to be used at meetings when it is permitted, the Group Leaders, Deputy Leaders or Whips will:

Notify the Monitoring Officer or Democratic Services Manager or their duly appointed representative in writing as soon as possible in advance of the meeting of:

- The Member to be substituted
- The substitute
- The anticipated period that a substitute will be used

Notify Chief Executive or their duly appointed representative in writing in the event of a permanent replacement Member due to exceptional circumstances (outlining the reasons for this).

4.7 The requirements of the Monitoring Officer or Democratic Services Manager

The Monitoring Officer or Democratic Services Manager or their duly appointed representative will:

- Record in the minutes, when new Member Groups or Scrutiny Panels are established, if substitutes are permitted

¹ Subject to exclusions based on agenda content and topics or issue being considered at meetings in short succession

- Advise all elected Members on the use of substitutes when required
- Indicate on the agenda if substitutes are permitted at all meetings where they are not expressly prohibited (based on agenda content and topics or issues being considered in short succession)

4.8 **The process for replacement Members**

Replacement Members are permitted when exceptional circumstances mean that a Member is unlikely to be able to attend future meetings through illness or legitimate external commitments.

In the event of such replacements the Group Leaders or Whips must notify the Chief Executive in writing in the event of a permanent replacement Member due to exceptional circumstances (as per paragraph 4.6). They must outline the reasons for this. The Monitoring Officer will then make arrangements to notify the Group Leaders of the replacement Member.

5. **TIME AND PLACE OF MEETINGS**

All meetings shall start at 7.00 p.m. and be held at the Civic Centre, subject to the right of the Chief Executive, in consultation with the relevant Chairman, to vary the starting time and location of any meeting.

6. **NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least **five clear days** before a meeting, the Chief Executive will send a summons signed by him/her by post or by such other means as he/she consider appropriate, to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. **CHAIRMAN OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor.

Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairman of Committees and Sub-Committees.

8. **QUORUM**

The quorum of a meeting of the Council will be **one quarter of the whole number of Members**. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

The quorum for a meeting of any Committee or other Member Group shall be one quarter of the whole Committee or Member Group. Provided that in no case shall the quorum be less than three Members.

9. DURATION OF MEETING

9.1 Close of Meeting

Meetings of the Council, Committees and Member Groups (with the exception of the Development Control Committee) shall adjourn at 10.00 pm.

Provided that the Council, Committee or Member Group may by resolution extend the closing time to no later than 10.30pm.

At the closing time of the meeting, the matter then under discussion and all of the business to be considered shall be adjourned to the next Ordinary Meeting of the Council, Committee or Member Group or such other meeting that is determined.

Provided that the Mayor/Chairman may at his/her discretion unless in his opinion the motion then under discussion at the closure time has been insufficiently discussed, put the motion to the vote without discussion, subject to the mover of the motion and any amendment under debate being given a right of reply under rule 14.9 before putting the motion to the vote. Otherwise, the matter, together with all other items of business remaining to be considered, will stand adjourned to the next Ordinary Meeting or such other meeting that is determined.

9.2 Recorded vote

If a recorded vote is called for during this process it will be taken immediately.

9.3 Motions which may be moved

During the process set out in Rules 9.1–9.2 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

9.4 Close of the meeting

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

10. PETITIONS

- 10.1 Petitions submitted not in accordance with the Council's statutory Petition Scheme
At a meeting of the Council any Member of the Council or a person who lives, works or studies within the Borough may present a petition which is relevant

to some matter in relation to which the Council has powers and duties or which affects the Borough.

10.2 A petition cannot be presented to Council if it:

- relates to a planning or licensing application, appeal or review or to a matter where there is already an existing right of appeal or separate complaints process; or
- is vexatious, abusive or defamatory.

At least seven working days before the meeting (not including the day of the meeting) at which the petition is to be presented, the person wishing to present it shall give notice of his/her intention to do so.

10.3 Where the person proposing to present a petition is a member of the public, the Chief Executive shall determine whether or not it is proper to refer the petition to the Council, taking into account the exemptions set out at paragraph 10.2. If not, the Chief Executive shall refer the petition to the appropriate officer, Committee or Member Group and advise the person presenting the petition accordingly.

10.4 The person presenting the petition shall be allowed up to five minutes to present the petition and any comments shall be confined to reading out or summarising the petition and making such further supporting remarks relevant to the petition. The petition would then be received without discussion and noted or stand referred to the relevant Head of Service, Committee or Member Group, as appropriate.

10.5 Petitions shall be presented in the order they are received by the Chief Executive.

10.6 Petitions submitted in accordance with the Council's statutory petition scheme
Petitions submitted to the Council in accordance with the statutory Petition Scheme shall be accepted and responded to in accordance with the Council's Petition Scheme at Part 8 of the Constitution. The Democratic Services Manager shall be responsible for the administration of the Scheme.

10.7 A statutory petition shall be accepted by the Council if it:

- is communicated in writing or using an electronic facility and is validly signed by people who live, work or study in the Borough
- relates to a function for which the Council is responsible or to an improvement in the economic, social or environmental wellbeing of the Borough to which a partner authority can contribute
- asks for action to be taken or ceased; and
- is not a petition made under or in accordance with any other enactment.

10.8 A petition shall not be accepted if it:

- relates to a planning or licensing application, appeal or review or to a matter where there is already an existing right of appeal or separate complaints process; or
- is vexatious, abusive or defamatory; or
- is an electronic petition and it is not submitted by way of the Council's e-petitions facility when it is available.

10.9 A petition accepted by the Council shall be acknowledged in writing within 10 working days. The petition organiser will be informed of the action the Council will take to respond to it together with the reasons for taking the action. This information will also be published on the Council's website.

10.10 Unless it is a petition requiring an officer to give evidence at a public meeting, a petition containing 2,196 or more signatures shall be debated by the Council and:

- the petition will be placed on the agenda for the next available meeting of the Council
- the petition organiser or a Member of the Council or someone else on their behalf will be entitled to address the Council for a maximum of 5 minutes on the petition
- the Council will debate the petition for a maximum of 15 minutes. A Member contributing to the debate shall speak only once (unless it is on a point of procedure or to provide a personal explanation) and for no more than 5 minutes.

10.11 The Council may decide upon one of the following courses of action:

- to take the action the petition requires
- not to take the action the petition requires for the reasons put forward in debate
- to refer it to the Cabinet or Committee of the Council with or without recommendations
- refer it to another public body with or without the Council's comments.

10.12 Written confirmation of the decision will be sent to the petition organiser within 5 working days of the meeting setting out what the Council has decided. The decision will also be posted on the Council's website.

10.13 A petition containing 2,196 or more signatures calling an officer to give evidence shall be dealt with by a meeting of a Scrutiny Group in accordance

with Rule 21 (Overview and Scrutiny Procedure Rules) of Part 4 of the Constitution.

10.14 If the organiser of a petition believes that the petition has not been dealt with or responded to satisfactorily, they shall have the right to request that the petition be referred to a meeting of a Scrutiny Group, which will deal with it in accordance with Rules 21.17 and 21.18 in Part 4, (Overview and Scrutiny Procedure Rules).

11. QUESTIONS BY MEMBERS

11.1 On reports of the Cabinet or committees or member groups

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

11.2 Questions on notice at full Council

Subject to Rule 11.3, a Member of the Council may ask:

- the Leader;
- a Member of the Cabinet; or
- the Chairman of any Scrutiny Committee or Member Group

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

11.3 Notice of questions

A Member may only ask a question under Rule 11.2 if either:

- (a) they have given at least **three clear working days** (not including the day of the meeting) notice in writing of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Member to whom the question is to be put and the content of the question is given to the Chief Executive by **10.00 am on the day** of the meeting.

11.4 Response

Every question shall be put and answered.

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.5 Supplementary question

One supplementary question in total may be asked by the Member asking the original question. A supplementary question must arise directly out of the reply and relate to the original question or it will not be permitted. The supplementary question and answer shall be given without discussion.

The Mayor, having due regard to advice of the Monitoring Officer, may reject a supplementary question if it:

- Does not arise directly from the reply
- Does not relate to the original question
- Is a statement and not a question
- Is not a matter for which the Council has responsibility
- Is not a matter which affects the Borough
- Is defamatory, frivolous or vexatious
- Is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- Requires the disclosure of confidential or exempt information

12. MOTIONS OF NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by the Member or Members moving the motion, must be delivered to the Chief Executive not later than **seven clear working days** (not including the day of the meeting) before the meeting.

12.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which they were received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

12.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

The Chief Executive, having due regard to the advice of the Monitoring Officer, may reject any motions submitted if it:

- Is a matter for which the Council has no responsibility and which does not affect the Borough
- Is defamatory, frivolous or vexatious

- Is substantially the same as a motion which has been put at a meeting of the Council in the past six months; or
- Requires the disclosure of confidential or exempt information

A Member of the Council who has moved a motion which has been referred to the Cabinet, Committee or Member Group shall have notice of the meeting when the motion is to be considered. The Member will have the right to attend and be given the opportunity to explain the motion.

13. **MOTIONS WITHOUT NOTICE**

The following **procedural motions** may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or Member Group arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the Cabinet, Committees, Member Groups or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to extend the meeting beyond 10.00 p.m.;
- (n) to suspend a particular Council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

14. **RULES OF DEBATE**

14.1 **No speeches until motion seconded**

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

14.2 **Right to require motion in writing**

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

14.3 **Secunder's speech**

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

14.4 **Content and length of speeches**

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

A Member presenting a report of the Cabinet or other Member Group or moving a motion of which notice has been given under Rule 12, may speak for up to ten minutes. No other speech shall exceed five minutes. Provided the Council may, by resolution, extend the time limit on speeches.

The time limit does not apply to speeches by officers in presenting reports or advising the Council on any matter.

14.5 **When a Member may speak again**

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

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

14.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Subject to (f) below, only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- (f) Provided that the Mayor may determine on the presentation of a report and recommendation being proposed and seconded, that the motions and any subsequent amendments would be debated together. In this case, at the conclusion of the debate, the amendments will be voted on separately in the order in which they were proposed.

14.7 Alteration of motion

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

14.8 Withdrawal of motion

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

14.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

- (c) The mover of the amendment shall also have the right of reply at the close of the debate immediately prior to the closing speech by the mover of the original motion.

14.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to extend the length of the meeting beyond 10.00 p.m.;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

14.11 Closure motions

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

If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

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

14.12 Point of order

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

14.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least seven Members.

Provided that this rule shall not apply to a motion by way of a recommendation from the Cabinet, Committee or Member Group.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least seven Members.

Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

Provided that this rule shall not apply to a motion by way of a recommendation from the Cabinet, Committee or Member Group.

16. VOTING

16.1 Majority

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

16.2 **Mayor's casting vote**

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

16.3 **Show of hands**

Unless a recorded vote is demanded under Rules 16.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

A record of the vote taken shall be recorded in the minutes of the meeting.

16.4 **Recorded vote**

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

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

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

16.6 **Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

17. **MINUTES**

17.1 **Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting subject to such minutes having been proposed, seconded and approved by the meeting.

The only part of the minutes that can be discussed is their accuracy.

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

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following

meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

17.3 Form of minutes

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

18. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to speak

When a Member speaks at full Council they must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

20.2 Mayor standing

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

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

20.5 **General disturbance**

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

21. **DISTURBANCE BY PUBLIC**

21.1 **Removal of member of the public**

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

21.2 **Clearance of part of meeting room**

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

22. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

22.1 **Suspension**

All of these Council Rules of Procedure except Rule 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

22.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

23. **APPLICATION TO COMMITTEES, SUB-COMMITTEES AND OTHER MEMBER GROUPS**

All of the Council Rules of Procedure apply to meetings of full Council.

Rules 20.3 and 20.4 in relation to Member not to be heard further and rules 20.5, 21, 21.1 and 21.2 in relation to general disturbance and disturbance by public apply to meetings of the Cabinet.

Only Rules 4–9, 14, 16-22 (but not Rule 20.1) apply to meetings of Committees and Member Groups.

24. **INTERPRETATION OF RULES**

The ruling of the Mayor as to the construction or application of any of these Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

To replace paragraph 16 within the Overview and Scrutiny Procedure Rules, Part 4, Rules of Procedure.

16. CALL- IN OF KEY DECISIONS PROCEDURE

- (a) When a key decision is made by the Cabinet, or a Committee of the Council Cabinet, or under joint arrangements, or in line with any delegation within the Constitution's responsibility for functions, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within **two working days** of being made'
- (b) Copies of the notice of decision will be provided to all Members
- (c) Key decisions of the Cabinet will come into effect **seven working days** (not including the day of the meeting) after the meeting **unless five members give notice in writing to the Chief Executive requesting a call-in of the decision. The facility to call-in only applies to key decisions of the Council's Cabinet**
- (d) If no notice requesting the call-in of a key decision is received in this **seven working day** period the decision will come into effect
- (e) The call-in submission should comprise a completed 'call-in' request form (**Annex A**) available to Members and include the names and signatures of the five signatories, the decision making principles (as set out in Article 13 – Decision Making) it is believed have been breached and also the reasons for this. The decision making principles are:-
- (i) Proportionality (ie the action must be proportionate to the desired outcome);
 - (ii) Due consultation and the taking of professional advice from officers;
 - (iii) Respect for human rights
 - (iv) A presumption in favour of openness;
 - (v) Clarity of aims and desired outcomes; and
 - (vi) The record of which options were considered and giving reasons for the decision
- (f) Upon receipt of the 'call-in' form the Chief Executive will give due regard to the advice of the Monitoring Officer to ensure the correct information has been submitted by the signatories. At this stage a call-in request could be rejected if it is believed:
- insufficient information has been provided
 - it is vexatious, malicious, or politically motivated
 - it does not evidence the decision making principles breached and why
 - the decision has previously been called-in
 - the reasons given have been addressed in a previous call-in

If necessary, reasonable steps will be taken to make the lead signatory aware of any issues regarding the validity of the call-in request prior to the closure of the call-in period.

- (g) Upon determining that the request is a valid call-in the Chief Executive will agree with the relevant scrutiny chairman (giving due regard to the Group's terms of reference and role and remit) the Scrutiny Group to consider the call-in and instruct the Monitoring Officer to notify the Cabinet of the call-in and also the relevant Council officers. He/she will then call a meeting of the relevant Scrutiny Group.
- (h) The Scrutiny Group must meet to consider the call-in as soon as possible and at the latest within ten working days of the decision to call it in. If the meeting does not take place in this period then the decision will come into effect. Special meetings of the Scrutiny Groups will be called if necessary to consider call-in requests within this period.
- (i) The first named Member (lead signatory) on the call-in form will be entitled to attend the relevant Scrutiny Group meeting to present the call-in, outline the reasons for the request and take part in any debate on the matter (but not vote). The relevant Cabinet Member(s) will also attend the meeting and be invited to address the Scrutiny Group. The Scrutiny Group may ask the lead signatory questions about the call-in request as part of their deliberations. They may also ask the Cabinet Member(s) questions as part of their deliberations. The format for the Scrutiny Group meeting when the call-in request is considered is set out at **Annex B**.
- (j) If having considered the decision the Scrutiny Group is still concerned about it, then it may refer the matter back to the Cabinet for reconsideration, setting out in writing the nature of its concerns. The Cabinet shall reconsider it at their next meeting, (or a special meeting if necessary) amending the decision or not, before adopting a final decision
- (k) If the Scrutiny Group concludes not to refer the matter back to the Cabinet the decision shall take effect on the date of the Scrutiny Group's meeting
- (l) If the Scrutiny Group concludes that the decision is outside the Budget and Policy Framework then, it can refer the matter to Council for consideration. Rule 10 within Part 4 of the Constitution - Rules of Procedure – Budget and Policy Framework – procedure Rules sets out the procedure in relation to the call-in of decisions outside the budget and policy framework. When exercising this option the Scrutiny Group should evidence how and why the decision is outside the framework and give due regard to the advice of the Chief Executive and Monitoring Officer on this matter. If the matter is referred to full Council and the Council does not object to a decision that has been made, then no further action is necessary and the decision will take effect from the date of the Council's decision.

CALL IN AND URGENCY

- (a) The call-in procedure set out above shall not apply where the decision is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests.
- (b) The Cabinet must decide that no call-in may be made on the grounds of urgency at the time the decision is made, and not subsequently. This will be indicated at a set point on the agenda.

- (c) If there is an urgent item, which it would not be practicable to call-in, then the Cabinet decision can be implemented by the Chief Executive in consultation with the Leader of the Council, the relevant Cabinet Member and the Chairman of the relevant Scrutiny Group.

Following insertion of above replacing existing paragraph 16 revert back to existing text at paragraph 17 as below.

17. Procedure at Scrutiny Committee Meetings

Notice of Call-In of Key Decision

In accordance with Rule XXXX of the Council's Constitution, we the undersigned hereby give notice that we wish to call-in the following key decision:

1. Decision.....
.....
2. Meeting at which the decision was made.....
.....
3. Date of the meeting.....

We believe that the following principles of decision making have been breached by the making of this decision (tick relevant boxes):

Principle		Reasons why breached	Please tick
a.	Proportionality		
b.	Due consultation and the taking of professional advice from officers		
c.	Respect for human rights		
d.	A presumption in favour of openness		
e.	Clarity of aims and desired outcomes		
f.	A record of what options were considered and giving the reasons for the decision		

1. Signed.....
Name.....
Date
2. Signed.....
Name.....
Date
3. Signed.....
Name.....
Date
4. Signed.....
Name.....
Date
5. Signed.....
Name.....
Date

CALL - IN PROCESS – EXPLANATORY NOTE

This note provides a simple explanation of the format for the ‘call-in’ at the meeting of a Scrutiny Group. It sets out each stage to follow to ensure the meeting is effective and is not adversarial. The key stages are set out as follows:

➤ **Stage 1 – Lead Signatory submission**

As Lead signatory the first signatory to the ‘call in’ will be invited to address the Scrutiny Group and to make a statement of explanation in respect of the decision called in. They should outline the reasons why the signatories have called the decision in. They should also aim to explain how the decision is in breach of the principles of decision making (as set out in Article 13 of the Council’s Constitution).

The address should be limited to a maximum of 20 minutes and the lead signatory should stick to the reasons why the decision has been called in and why they believe it is in breach of the decision making principles.

➤ **Stage 2 – Cabinet Member submission**

Following the lead signatory’s address to the Scrutiny Group the relevant Cabinet Member(s) will be invited to address the Group. Relevant officers can be called upon to support this submission.

The address should be limited to a maximum of 20 minutes and it should aim to address the reasons given by the lead signatory for the call-in. They should also aim to explain why the decision has not breached the principles of decision making. Any officer evidence will not form part of this timed address.

➤ **Stage 3 – Scrutiny Group questions**

Scrutiny Group Members can then ask questions of the lead signatory, the Cabinet Member and officers directly relating to the decision and the reasons for the call-in (this should be questions about the decision and the call-in and not a debate on the issue as a whole).

➤ **Stage 4 – Lead Signatory closing statement**

The Lead signatory makes a closing statement (this should last a maximum of 5 minutes) responding to the submissions and questions previously heard. They are not allowed to question anyone.

➤ **Stage 5 – Cabinet Member closing statement**

The Cabinet Member(s) then make a closing statement (this should last a maximum of 5 minutes) responding to the submissions and questions previously heard. They are not allowed to question anyone.

➤ **Stage 6 – Scrutiny Group decision**

At this stage the Scrutiny Group needs to make a decision based on the discussion that has taken place. The Chairman should make it clear that no further submissions

will be heard from the Lead signatory or the Cabinet Member(s) whilst the Scrutiny Group deliberates and makes a decision.

The Scrutiny Group has a number of options available for its decision which are:

- They agree with Cabinet's decision (the Cabinet decision can now be actioned)
- They disagree with it but this does not warrant referral back to Cabinet (the Cabinet decision can now be actioned)
- They disagree with the decision and agree that it should be referred back to the next Cabinet meeting (the Scrutiny Group should expressly outline the reasons for disagreeing with Cabinet's decision in its recommendations)

Minutes of the meeting containing the decision will be circulated to all Members in due course.

QUESTIONS BY THE PUBLIC – DRAFT PROTOCOL

If a public questions facility is agreed then this text would be inserted into the Council Procedure rules Part 4 – Rules of Procedure – The Council

(a) General

Members of the public who live, work, or study in the Borough may ask questions of Members of the Cabinet or Chairman of a Scrutiny Group at ordinary meetings of the Council.

Unless the Council (by majority), in exceptional circumstances, decides otherwise, the maximum period of time for questions by the public at the Council meeting shall ***be a total of 20 minutes***. Any questions which are not considered in this time will be answered in writing in line with the Council's established service standards.

(b) Order of questions

Questions will be asked in the order they were received, except that the Mayor may group together similar questions. No supplementary questions can be asked.

(c) Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by fax or by email to the Head of Corporate Services no later than midday seven working days (not including the day of the meeting) before the day of the meeting. Each question must give the name and address of the questioner and identify the name of the Cabinet Member, or Chairman of Scrutiny Group to whom it is to be put. The Head of Corporate Services will offer advice to the questioner as to whom it is most appropriate for the question to be put to in cases of ambiguity or uncertainty.

(d) Scope of questions

The Chief Executive, having due regard to the advice of the Monitoring Officer, may reject a public question submitted if it:

- Is a matter for which the Council has no responsibility and which does not affect the Borough
- is from or on behalf of a political party or organisation, or from a staff group
- is in relation to an individual's individual circumstances
- is defamatory, frivolous or vexatious
- is substantially the same as a question which has been put to a meeting of the Council in the past six months
- is about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature
- is about an identifiable person or
- requires the disclosure of confidential or exempt information

(e) Record of public questions

The Head of Corporate Services will keep a record of each public question submitted and immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejections. Copies of all questions will be circulated to all Members and will be available to the public attending the meeting. They will also be made available from the relevant page on the Council's website which can be viewed at:

- insert link to relevant web page

(f) Asking the question at the meeting

The Mayor will invite the questioner to put the question to the Member named in the notice of the question. If a questioner who has submitted a written question is unable to be present, he/she may ask the Mayor to put the question on his/her behalf. In the absence of the questioner, the Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide that the question will not be dealt with.

(g) Written answer

The total time allocated for questions at each meeting will be twenty minutes; any questions not answered at the end of this time will be answered in writing. Any question that cannot be dealt with during public question time because of non attendance of the Member to whom it was put, will be dealt with by a written answer. A record of any written response provided will be kept by the Head of Corporate Services and these will be available on the Council's website as set out previously at point (e).

(h) Reference of public question to the Cabinet or a Committee

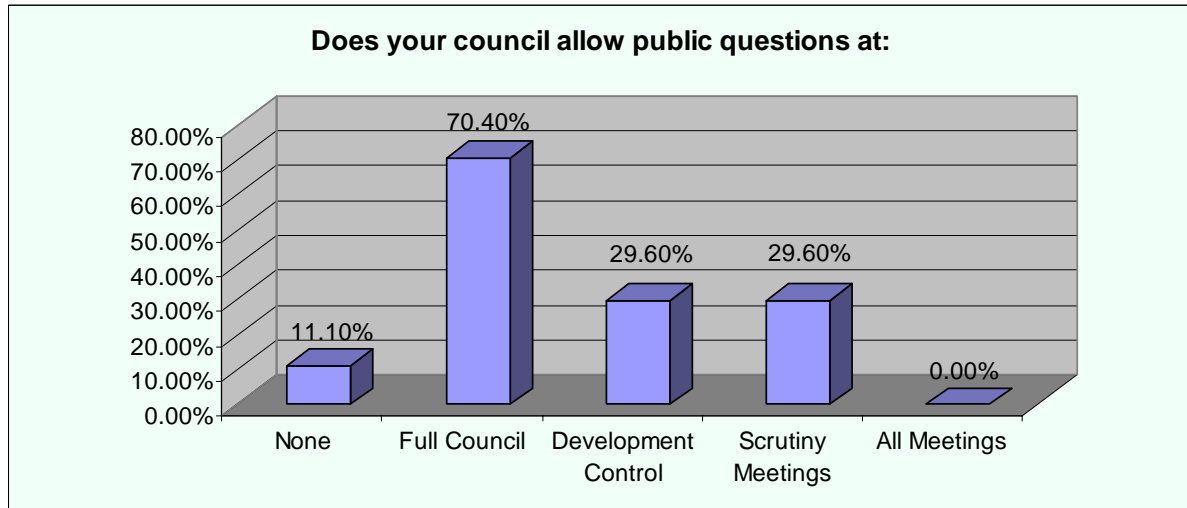
No discussion will take place on any public question submitted, nor shall they be referred to another committee.

PUBLIC QUESTIONS

COUNCIL NAME	WEBCAST Yes/No (insert link)	PUBLIC QUESTIONS	HOW LONG
Gedling Borough	No	Yes	30mins
Bassetlaw District	No	Yes	60mins
Ashfield District	No	Yes	-
Nottingham City	No	Yes	30mins
Nottinghamshire County	No	No	
Broxtowe Borough	No	Development Control only – each speaker	3mins
Newark & Sherwood District	No	Yes	30mins
Derby City	www.derby.gov.uk/CouncilGovernmentDemocracy/DemocraticProcessesEvents/webcasts If the link does not work – log onto www.derby.gov.uk Select Council and Councillors, select webcasts of Council meetings	Yes	30mins
Derbyshire County	No	Yes	30mins
Leicester City	www.leicester.gov.uk/councillors-democracy-and-elections/webcasting-council-meetings	Yes	20mins
Leicestershire County	www.leics.gov.uk/index/your_council/webcast_county_council	Yes	-
Mansfield District	No	Executive Council	15mins 30mins
Charnwood Borough	No	Yes	-
Blaby	No	Yes	15min

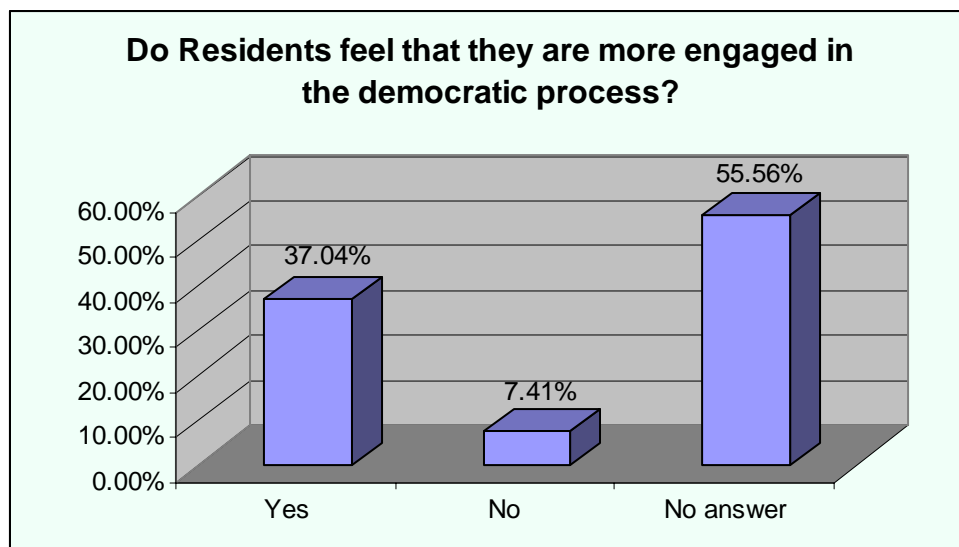
Summary of Questionnaire to other Authorities

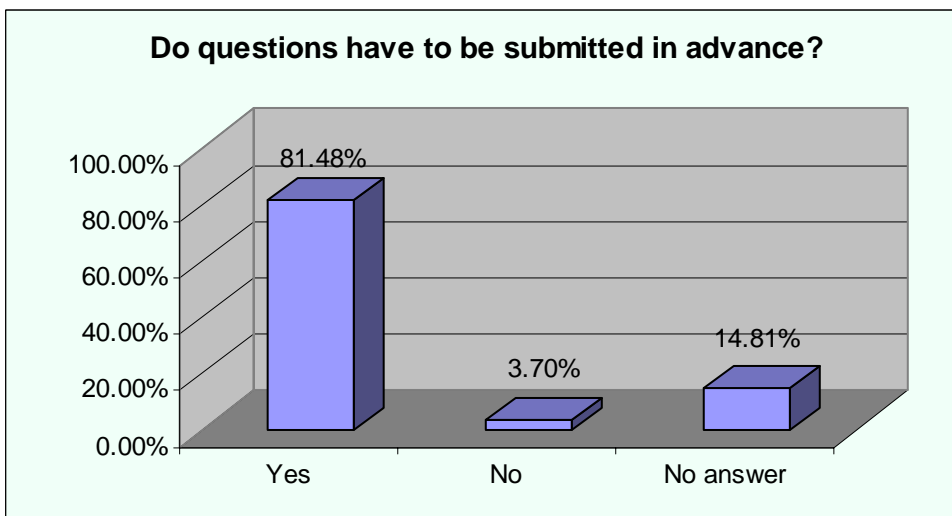
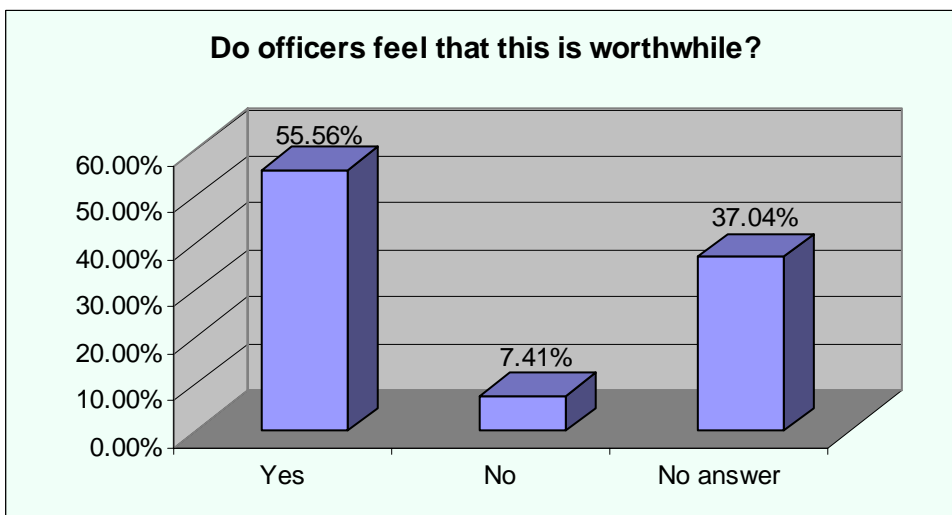
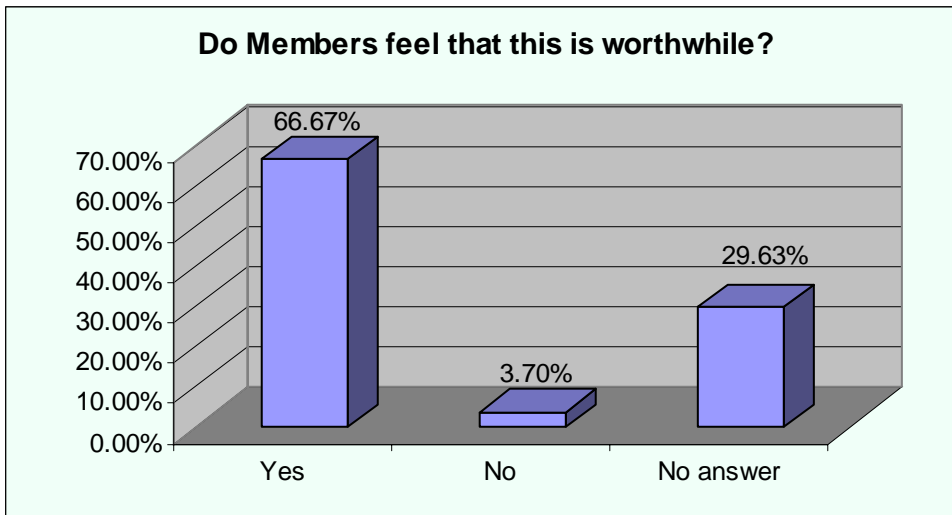
(27 responses were received from 35 Authorities surveyed)



Comments

- On average there was between 0 and 3 questions per meeting. Some Council reported that they had not received any questions at all.
- Time limits vary from 10 – 30 minutes per session with questioners being limited to 5 minutes per question. Some Councils limit the number of questions asked by an individual.





Comments

- In general questions are submitted between 2 and 7 clear working days before the meeting.

Examples of responses when asked what improvements would the authority make to the process

Comments

- We have recently reviewed this and the consensus was to leave it as it is on the basis that a few should not prejudice the opportunity to the majority.
- Would advise keeping the process tight - set out rules for asking questions in Constitution
- Insufficient take up to review
- I would like the questioners to be able to ask the question themselves in the full council meeting.



PERFORMANCE MANAGEMENT BOARD

24 NOVEMBER 2010

CALL IN PROCESS AND ORDER OF MEETING

4

REPORT OF THE HEAD OF CORPORATE SERVICES

➤ **Stage 1 - Lead Signatory submission**

Lead signatory invited to address PMB to make a statement of explanation in respect of why the decision has been called in (Maximum of 15 minutes).

➤ **Stage 2 - Cabinet Member submission**

Relevant Cabinet Member(s) invited to address the Board (Maximum of 15 minutes). If officers are required to provide information in relation to the report considered by Cabinet, then this will be additional to the Cabinet Members submission and not timed.

➤ **Stage 3 - Questions**

PMB members can ask questions of the lead signatory, the Cabinet Member and officers present directly relating to the decision (this should be questions about the decision and not a debate on the issue as a whole).

➤ **Stage 4 - Lead Signatory closing statement**

The Lead signatory makes a closing statement responding to the submissions and questions previously heard (Maximum of 5 minutes). They are not allowed to question anyone or be questioned.

➤ **Stage 5 - Cabinet Member closing statement**

The Cabinet Member then make a closing statement responding to the submissions and questions previously heard (Maximum of 5 minutes). They are not allowed to question anyone or be questioned.


➤ **Stage 6 - PMB decision**

PMB to make a decision based on the discussion that has taken place. No further submissions will be heard from the Lead signatory or the Cabinet Member(s) whilst PMB deliberates and makes a decision.

PMB has a number of options available for its decision which are:

- They agree with Cabinet's decision (the Cabinet decision can now be actioned)
- They disagree with it but this does not warrant referral back to Cabinet (the Cabinet decision can now be actioned)
- They disagree with the decision and agree that it should be referred back to the next Cabinet meeting (PMB should expressly outline the reasons for disagreeing with Cabinet's decision in its recommendations)

Minutes of the meeting containing the decision will be circulated to all Members in due course.

 <p>Rushcliffe Borough Council</p>	<p>CABINET</p> <p>9 NOVEMBER 2010</p> <p>ESTABLISHMENT OF A NON PROFIT DISTRIBUTING ORGANISATION ARRANGEMENT FOR THE LEISURE MANAGEMENT CONTRACT WITH PARKWOOD LEISURE LTD</p>	<p>7</p>
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REPORT OF THE HEAD OF PARTNERSHIPS AND PERFORMANCE

CABINET PORTFOLIO HOLDER – COUNCILLOR J E FEARON

Summary

1. This report brings forward proposals to support Parkwood Leisure Ltd in the establishment of a Non Profit Distributing Organisation (NPDO) which will realise significant financial benefits through the ability to claim discretionary rate relief on the NNDR business rates payable for the five leisure centre sites covered by the Leisure Management Contract. This opportunity was identified for implementation following agreement of the 2010/11 budget proposals by Council on 4 March 2010.
2. Over the last few months detailed negotiations have been taking place with Parkwood on the fundamental contractual elements of this proposal. The attached proposal summarises these negotiations and present an agreed position that meets both parties' aspirations.
3. Throughout these negotiations Parkwood have been insistent that the five year contract extension and changes to the basket of terms and conditions are essential elements. The Council has been equally insistent that the Council's risk is minimised and that the five year extension continues to provide good value for money. External legal advice in respect of any potential procurement challenge has been sought and officers are assured that this presents no significant risk.
4. The proposal offers the Council a five year extension to the contract for an additional £565,000 which equates to approximately £113,000 per year. This provides significant security going forward for the Council.
5. The Parkwood contract has now been in operation since August 2007 and has been subject to regular performance and scrutiny reviews. The performance has met the Partnership Philosophy and key performance indicators set out in the contract.
6. To summarise if accepted, Parkwood Leisure Ltd will continue to operate the contract on behalf of Rushcliffe Borough Council, but this would be through a sub contract to Parkwood Community Leisure Ltd, the NPDO Company.

Recommendation

It is RECOMMENDED that:

- a) The proposal put forward by Parkwood Leisure Ltd to establish a new

contractual arrangement for the Council's leisure management contract covering the creation of an NPDO be accepted.

- b) A five year extension of the current contract be agreed.
- c) The proposed changes to the basket of terms be agreed.

Background

7. Parkwood Leisure Ltd have presented an opportunity to establish a Non Profit Distributing Organisation (NPDO) covering the Council's Leisure Management Contract which has significant financial benefits for both parties associated with the ability to claim NNDR discretionary rate relief. To achieve this Parkwood Leisure Ltd have formed Parkwood Community Leisure Ltd which has now been in operation for just over three years and is already operating on five of their current contracts, as detailed below.

- Portsmouth City Council – taken over as a NPDO
- Cherwell District Council – taken over as a NPDO
- Wycombe Borough Council – taken over as a NPDO
- Staffordshire Moorlands District Council – agreed change to existing contract including 10 year contract extension
- North Somerset District Council – 5year contract extension

8. The potential for Rushcliffe Borough Council to enter into a similar arrangement covering the current contract with Parkwood Leisure Ltd was identified as an efficiency saving which Council and Cabinet agreed should be progressed to help meet some of the Council's identified budget shortfall in 2010/11 and beyond.

9. The following paragraphs summarise the key areas for agreement including the financial benefits and operational implications of introducing this arrangement

NNDR Discretionary Relief

10. Discretionary Rate Relief is available under section 47 of the Local Government Finance Act 1988.

11. Relief is available for up to 100% of the NNDR due in respect of property occupied by the relevant body for its non-profit making/charitable or club purposes. The local authority meets a portion of the costs of NNDR Relief under these sections. In practice, whilst some authorities grant 100% relief the usual practice including Rushcliffe's current policy limits this to 80%, at which point the government meets 75% of the cost of the relief.

12. Relief is dependent both upon:

- the nature of the organisation and activity being carried out at the relevant property; and
- satisfaction by the organisation of the normal rating requirements for occupation. As regards the latter point it is the organisation itself that has to be in paramount occupation of the property – it cannot, for instance, occupy through a sub-tenant.

Parkwood Model

13. The principles behind the approach adopted by Parkwood Leisure Ltd elsewhere is as follows:

- Parkwood Leisure Ltd retains its role as main contractor and contracts directly with the Authority. In this way the Authority has the comfort of knowing that ultimate responsibility for the provision of the service remains with/is assumed by Parkwood Leisure Ltd;
- Lease of the relevant properties are granted to Parkwood Leisure Ltd;
- Parkwood Leisure Ltd subcontracts the provision of all or the majority of the operation of the services to Parkwood Community Leisure Ltd. Brief details of Parkwood Community Leisure Ltd are as follows:
 - Parkwood Leisure Ltd has established Parkwood Community Leisure Ltd under company number 6054092. Date of Incorporation 16th January 2007.
 - It is a company limited by guarantee and Parkwood Leisure Ltd is the sole member of Parkwood Community Leisure Ltd.
 - Parkwood Leisure Limited and Parkwood Community Leisure Ltd. share common directors.
- Parkwood Leisure Ltd grants sub-leases of the relevant properties to Parkwood Community Leisure Ltd;
- Depending upon the exact contractual arrangements Parkwood Leisure Ltd may retain direct responsibility for the provision of some services (e.g., catering, vending, etc) (referred to as “excepted services”) but not so as to give it rights of occupation of the properties superior to the interest of Parkwood Community Leisure Ltd;
- Parkwood Community Leisure Ltd is responsible for the day to day operation of the services (other than any excepted services) and employs all the staff working at the centres;
- Parkwood Leisure Ltd provides management resources to Parkwood Community Leisure Ltd under a Service Level Agreement, along with professional and other central support services (ie HR, accountancy, payroll, marketing etc);
- Parkwood Leisure Ltd receives the deficit funding payment from the Authority and, effectively, indemnifies Parkwood Community Leisure Ltd against any shortfall of costs over income from users (which it retains);
- Any profits made by Parkwood Community Leisure Ltd would be used for sports development within the area of the Authority;
- The deficit funding arrangement is varied to assume that Parkwood Community Leisure Ltd will obtain NNDR Relief;
- Parkwood Leisure Ltd is contractually obliged to require Parkwood Community Leisure Ltd to apply for NNDR Relief;
- If the application for NNDR Relief is unsuccessful at any time (for instance, because of a change of eligibility or a failure by the rating authority to exercise its discretion to award relief – it must be remembered that the discretion always lies with the Authority to refuse an application on economic or other grounds) the Authority is obliged to pay an additional subsidy to Parkwood Leisure Ltd equating to the amount of relief lost (to the maximum of the assumption made when varying the deficit funding arrangement).

14. The implementation of a similar approach at Rushcliffe in relation to the

existing contractual arrangements would involve, from the Council's perspective, the following documentation and checks:

- A deed of variation to the Management Contract permitting the sub-contracting and sub-leasing; including provisions varying the deficit funding arrangements, the obligation to apply for NNDR Relief and the consequences of relief being unavailable at any time and all other commercial variations arising as a result of these discussions (ie revised term/workforce code variations).
- Surrender and regrant of leases with associated Landlord and Tenant Act Notices. The new leases would include consent to grant sub-leases by Parkwood Leisure Ltd to Parkwood Community Leisure Ltd.
- The formation of a sub-contract between Parkwood Leisure Ltd and Parkwood Community Leisure Ltd.
- Sub-leases from Parkwood Leisure Ltd to Parkwood Community Leisure Ltd including all associated Landlord and Tenant Act notices.
- Legal checks on Parkwood Community Leisure Ltd as to its entitlement to claim NNDR relief

Financial Benefits

15. The main financial benefit associated with the establishment of a NPDO relates to the ability to reduce the liability for National Non Domestic Rates (NNDR) for the five leisure centre facilities covered by the Leisure Management contract.
16. As the main company in occupation, Parkwood Community Leisure Ltd will still have to pay the NNDR rates but they can then apply to the Council for discretionary relief in accordance with the Council's policy. The Council's current discretionary relief policy states for Hybrid Leisure Trusts (NPDO) – discretionary relief is to be normally granted at 80% and no additional relief will be granted where there is a mandatory requirement. Any discretionary rate relief Rushcliffe grants to an organisation is funded in a 75:25 split between the NNDR pool (ie central govt) and the Council.
17. The current NNDR payable at the five leisure centre sites managed by Parkwood together with the projected impact of the application of this NNDR discretionary rate relief is as follows:

Property	Year	Rateable Value	Net Charge	80% discretionary relief	RBC contribution towards discretionary relief 25%
Cotgrave Leisure Centre	2010/11	£183,000	£75,762	£60,609	£15,152
Rushcliffe Arena	2010/11	£190,000	£78,660	£62,928	£15,732
Keyworth Leisure Centre	2010/11	£84,500	£26,289	£21,031	£5,258
Bingham Leisure Centre	2010/11	£185,000	£70,794	£56,635	£14,159
Rushcliffe Leisure Centre	2010/11	£165,000	£68,310	£54,648	£13,662
Nottinghamshire Gymnastics Club	2010/11	£54,500	£22,563	£18,050	£4,512
TOTALS			£342,378	£273,901	£68,475

18. Based on the above figures a reduction of £273,901 in NNDR is anticipated but the Council would be required to pay a contribution of £68,475 leaving a potential saving associated with this arrangement of £205,426. Parkwood Leisure Ltd currently propose that this saving is shared by both parties following the deduction of set up and administration costs associated with the establishment of the NPDO arrangement. In a typical year this is estimated to equate to an annual saving (before deduction of administration costs) of around £102,713 for both the Council and Parkwood Leisure Ltd.
19. The sharing arrangements and value of the legal and ongoing administration costs for operating the NPDO still require further negotiation between both parties.

Term of Contract

20. The current Leisure Management contract term is ten years with the ability to extend for a further five years. The contract commenced on 1 August 2007 and to ensure that a sufficiently long contract is available for the NPDO Parkwood Leisure Ltd are requesting that the Council approve this five year extension as part of this arrangement.

Basket of Terms

21. The Council wanted to ensure that terms and conditions of staff appointed by Parkwood after the commencement of the contract were closer in comparison to those of staff being transferred under TUPE regulations from the Council. The cost to the Council of this is £20,000 per contract year. In the time since the commencement of the contract a large proportion of staff have either left through natural wastage or opted to transfer to Parkwood Leisure contracts due to changes in jobs and promotions. This has resulted in a very small number of staff (6) remaining on their original contract terms and conditions and they will continue to do so. Parkwood Leisure Ltd has requested this payment is phased out over a three year period. Should the Council determine to establish the NPDO, Parkwood wish to appoint all staff engaged after the commencement of the NPDO on to their standard terms and conditions. This is in line with their overall approach with Rushcliffe being the only contract with staff on different conditions.

Overall financial benefits associated with the proposals

22. The Council achieved £400,000 per year cost savings when first entering into the contract for leisure management which has enabled the Council to retain its current level of provision. The opportunity to enter into a NPDO arrangement will generate further savings. For the original 10-year term of the contract an additional saving of £1,121,750 would be realised. Should the contract term be extended to 15 years under this arrangement then the savings realised would be in the region of £1.9m over the original anticipated costs over the same term. The proposal offers the Council a five year extension to the contract for an additional £565,000 which equates to approximately £113,000 per year. This provides significant value for money, security going forward and savings associated with not having to undertake a further procurement exercise in 2017.

Council Liability/Risk

23. The Council has taken external legal advice in relation to this change to the contract and the associated risks.
24. The principal risk for the Council is that NNDR relief is not granted or that a change in legislation prevents it in future, as referred to in the last bullet point of paragraph 13. The original heads of terms offered by Parkwood proposed that in the event of a failed application or a change of law then all associated costs of reversion (including Parkwood's) should be borne by the Council. This would have created an unquantifiable risk to the Council and following further negotiations, they have now agreed that the Council's liability for their costs would be capped at £10,000 in this eventuality.
25. The existing contract documentation already provides significant protection against risks such as poor performance, change in the leisure portfolio and economic circumstances. There are both strategic and operational governance regimes in place to monitor these arrangements.

Financial Comments

The budget proposals approved at Council on 4 March 2010 included a saving of £95,000 per annum relating to the Council entering a trust arrangement as described in the body of the report. The budget assumed this saving would materialise from 1 September 2010. The detail within the report confirms that this level of saving can be substantially achieved but the commencement has been delayed due to protracted negotiations of terms.

This saving of £92,713 after deduction of administrative costs is achievable under the existing legislation however there is a risk that Central Government may change the rules and remove the option of discretionary rate relief at some point in the future. However, there is no indication that this is likely to happen and there would be minimal impact and cost to revert back the current arrangements. Further savings would be made in year 3 as a result of the changes to the basket of terms of £20,000.

It is considered that the recommendations will provide value for money for the authority by agreeing to this proposal put forward by Parkwood.

Section 17 Crime and Disorder Act

There are no implications in relation to this report

Diversity

There are no implications in relation to this report

Background Papers Available for Inspection:

Letter from Parkwood Leisure Ltd dated 24 September 2010

Extract from the Cabinet Minutes 9 November 2010

38. Establishment of a Non Profit Distributing Arrangement for the Leisure Management Contract with Parkwood Leisure Ltd

Councillor Fearon presented the report of the Head of Partnerships and Performance setting out proposals for the establishment of a Non Profit Distributing Organisation (NPDO) for Parkwood Leisure Ltd. The report indicated that the establishment of the NPDO would realise significant financial benefits through the ability to claim discretionary rate relief on the business rates payable for the five leisure centre sites covered by the Council's Leisure Management Contract. The report also indicated that this opportunity was identified for implementation following agreement of the 2010/11 budget proposals by Council on 4 March 2010.

Commenting further on the report Councillor Fearon stated that detailed negotiations had been taking place with Parkwood Leisure Ltd on the contractual elements of the proposal. He added that details of this were set out in the report which also summarised the negotiations and an agreed position meeting both parties' requirements. He believed that the proposal provided a clear, satisfactory and secure way forward for the Council and he made reference to the overall financial benefits as set out in paragraph 22 of the report.

Councillor Fearon went onto explain that during the negotiations Parkwood Leisure Ltd had been insistent that the five year contract extension and changes to the basket of terms and conditions were essential elements. However the Council had been equally insistent that its risk be minimised and that the five year extension continued to provide good value for money. In view of this external legal advice had been sought in order to assess and evaluate risks in relation to a potential procurement challenge and as such the report indicated that officers were assured that this presented no significant risk.

With regard to Council liability and risk Councillor Fearon explained that this was covered in the report. He added that throughout the process the Council had taken external legal advice in relation to the potential change to the contract and any associated risks. This advice had highlighted that the principal risk for the Council was that National Non Domestic Rate (NNDR) relief was not granted or that a change in legislation prevented it in future.

The report explained that the original terms offered by Parkwood Leisure Ltd had proposed that in the event of a failed application or a change of law then all associated costs of reversion (including Parkwood's) should be borne by the Council. This would have created an unquantifiable risk to the Council and following further negotiations and legal advice it was agreed that the Council's liability in this eventuality, would be capped at £10,000.

The report indicated that the existing contract documentation provided significant protection against risks such as poor performance, change in the leisure portfolio and economic circumstance and there were strategic and

operational governance regimes in place to monitor these arrangements. The contract with Parkwood Leisure Ltd had been in operation since August 2007 and had been subject to regular performance monitoring through the established scrutiny process.

Making reference to paragraph 14 in the report Councillor Clarke sought clarification of the terminology 'sub-contract' and 'sub-lease'. In response Councillor Fearon stated that the arrangement would require the establishment of a sub-contract of the services to the NPDO by Parkwood Leisure Ltd. Additionally there would be associated sub-leases of the relevant premises that had been previously leased to Parkwood Leisure Ltd by the Council. Commenting further on this the Head of Partnerships and Performance (DM) stated that this was correct and the arrangements outlined were within the legal framework for the proposal.

Councillor Cranswick stated that the proposal in the report offered the Council a five year extension to the contract for an additional £565,000, which equated to approximately £113,000 per year. He added that he supported the proposal as it provided significant security for the Council going forward.

AGREED that:

- a) the proposal put forward by Parkwood Leisure Ltd to establish a new contractual arrangement for the Council's leisure management contract covering the creation of an NPDO be accepted.
- b) a five year extension of the contract and the proposed changes to the basket of terms be agreed.

RUSHCLIFFE BOROUGH COUNCIL



REQUEST FOR AN ITEM TO BE CALLED IN

(The circumstances and manner in which a Cabinet decision may be called in for consideration by a Scrutiny Group are set out in Rule 16 of the Overview and Scrutiny Procedure Rules of the Constitution reproduced overleaf)

Rushcliffe

DECISION:

Please set out the decision you wish to be called in and the date on which it was made -

Agenda Item 7

Cabinet Meeting Date 9 November 2010

REASONS/OTHER INFORMATION

It may be helpful to the Performance Management Board if the reason for calling in the decision is briefly stated and/or any particular issues identified.

The Cabinet recommendation proposes a significant change to Rushcliffe Leisure Management Contract and Parkwood without adequate or proportionate Member Scrutiny. The proposals contained within the Cabinet then have not been considered by the Member Working Group on Leisure Centres which is reviewing short and long term options and this scrutiny should occur as extension to the Parkwood Contract which has a significant impact on long term plans for Leisure Strategy - Rushcliffe. The proposals do not address in detail Parkwood's commitment to improving the services provided to match the increased funds available via this new extended contract and ^{do not provide} ~~any~~ details regarding consultation and the impact on junior Rushcliffe staff. Under TUPA terms and conditions.

Please print the names of the five Members requesting that the decision be called in. Each Member should sign alongside their name.

	PRINT NAME	SIGNATURE
1.	Councillor R. JONES	<i>R. Jones</i>
2.	Councillor C. S. EVANS	<i>C. S. Evans</i>
3.	Councillor G. R. MOLLINDER	<i>G. R. Mollinder</i>
4.	Councillor Ben Venes	<i>Ben Venes</i>
5.	Councillor S. J. BOOTE	<i>S. J. Boote</i>

We, the above-named Members of Rushcliffe Borough Council request that the decision specified above, be called in for consideration by the Performance Management Board.

Dated 11th November 2010

NB To ensure that the call-in is properly made this request (duly completed and signed) should be received by the Borough Solicitor or the Member Services Manager before the end of the 7th working day after the date of the meeting at which the decision in question was taken.