

**REVISIONS TO THE CONSTITUTION APPROVED BY COUNCIL  
29TH APRIL 2004**

(New wording is underlined)

**PART 2 – ARTICLES OF THE CONSTITUTION**

**Citizens and the Council (Article 3)**

Add to paragraph 3.01 (a) **Voting and Petitions:**

(ii) Citizens have the right, subject to limitations set out in Petitions – Procedural Guidance in Part 5: Codes and Protocols, to submit petitions to the Council on matters of concern.

**Standards Committee (Article 9)**

Amend paragraph 9.02(h) **Quorum and Deputies** to:

- ~~Subject to Article 9.02(c) above which required a parish Member to be present when parish councils or their members are being considered, The quorum for any meeting of the Standards Committee or any sub-committee of the Standards Committee shall be FOUR members of whom at least one shall be an **Independent Member** (and one must be a **Parish Member** if parish councils or parish councillors are being considered). For hearings panels under the hearing procedure described in Part 5, Section L, the number of members on the panel shall be THREE.~~
- Except in the case of hearings panels, normally where the number of members of any sub-committee is less than the number of the Committee.....

**Officers (Article 12)**

Amend paragraph 12.01, **Management Structure** to:

- (a) **General.** *The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.*
- (b) **Chief Officers.** *The full Council will engage persons for the following posts, who will be designated Chief Officers:*

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Departmental management and operational responsibility for the following service areas:</p> <p><u>Corporate Policy; Best Value; Public Relations/Information; Reception; Sustainability; Electoral Registration and Review; Community Strategy; Community Partnerships/Development; Arts Development; Sports Development; Community Safety; Milton Country Park; Travellers' Services</u></p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the monitoring officer. responsibility for reviewing</p>

	<p>the constitution.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>
<p><i>Finance and Resources Director (and Chief Finance Officer)</i></p>	<p>Departmental management and operational responsibility for the following service areas:</p> <p><u>Financial Administration; Accountancy; Collection of Revenues (Council Tax, Non-Domestic Rates, Rents and Other Debts); Housing and Council Tax Benefit; Site Management; Postal Services; Printing Services; e-Government; Exchequer; Payroll; Internal Audit; Library; Human Resources; Legal Services; Local Land Charges; Democratic Services.</u></p> <p><u>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.</u></p> <p>Statutory responsibilities of chief finance officer set out in <a href="#">12.04</a> below</p>
<p><u>Development Services Director</u></p>	<p>Departmental management and operational responsibility for the following service areas:</p> <p><u>Development Control; Local Plans/Local Development Framework; Land Use; Transport and Economic Development; Building Control; Conservation of Built and Natural Environment; Listed Building Grants; Street Naming and Numbering; Housing Development; Travellers Sites</u></p>
<p><u>Housing and Environmental Services Director*</u></p>	<p>Departmental management and operational responsibility for the following service areas:</p> <p><u>Housing Management (Shire Homes); Housing Aid and Advice; Home Improvement Agency; Right to Buy; Lands; Contracted Building Repairs, Grounds Maintenance, Waste Collection, Vehicle Maintenance, Taxi and Private Hire Car Inspection and Miscellaneous Direct Services in support of other Council functions;</u></p> <p>All Council's Licensing Functions; Environmental Health and Services including Dog Warden Service, Pest Control Service; Street Cleansing; Street Lighting; Swavesey By-Ways; Awarded Watercourses; Waste Management and Re-Cycling; Pollution Control</p>

\*See Part 3, table 4 for delegated powers specifically given to the Chief Environmental Health Officer by virtue of his qualifications and expertise.

Add to paragraph 12.08, **General Delegated Powers and Proper Officer Responsibilities** [repeated in [Delegation Rules](#)]:

- (a) All Chief Officers shall have full power to do all such things and exercise all such discretions within their respective functions and areas of responsibility as set out in Article [12.01](#)(b) above in relation to all operational matters, subject strictly to the [Delegation Rules](#) in [Part 4](#). These powers, though described in general terms, are intended to allow Chief Officers freedom of operational management, within service areas, within policy and within budget. Where there is doubt as to whether a power exists or existed, the Chief Executive shall, after consulting any members of the

Executive or any relevant Chairmen of Committees, advise and may certify in writing accordingly. Such certificate shall be conclusive for all purposes.

### **PART 3 FUNCTIONS**

#### **Responsibility for Council Functions**

Amend relevant functions of the **Employment Committee** to:

<b>Functions</b>	<b>Delegation of Functions</b>
<i>Disciplinary and Grievance Procedures</i>	<i>Ad hoc panel of 3 councillors chosen by the chairman of the committee <u>or the vice-chairman in the absence of the chairman</u> from the members of the committee (Appeals Panel)</i>
<i>Recommend to Council appointment of Chief Executive/Head of Paid Service</i>	<i>Ad hoc panel of <u>no more than 5</u> councillors. <u>The Leader and the Resources and Staffing Portfolio Holder shall be included and the remaining members chosen from members of the committee by the chairman of the committee, or the vice-chairman in the absence of the chairman. So far as circumstances allow, the chairman shall involve the Cabinet and relevant group(s) of members in the selection process.</u></i>
<i>Appoint Chief Officers and Deputy Chief Officers, other than the Chief Executive/Head of Paid Service</i>	<i>Ad hoc panel of no more than 5 councillors. <u>The Resources and Staffing Portfolio Holder and other relevant portfolio holder(s) shall be included and the remaining members chosen from members of the committee by the chairman of the committee, or the vice-chairman in the absence of the chairman. So far as circumstances allow, the chairman shall involve relevant group(s) of members in the selection process.</u></i>

#### **Responsibility for Executive Functions**

Additional paragraph:

*Every Portfolio Holder shall have full power to take executive decisions on any matter within his or her portfolio responsibility, except as may be referred by him or her to the Executive or reserved to it by the Executive. Part 3 of this constitution sets out the responsibility of Council functions and Tables 3A and 3B those of the Executive. Those Tables set out in some detail which functions are presently reserved to the Executive as a whole and which are delegated to portfolio holders. Where no reference is specifically made in Table 3B to any function of executive discretion, it shall be within the power of the relevant portfolio holder to determine any matter or thing within the ambit of the respective portfolio but subject to the following overall criteria which shall also apply to those functions specifically delegated:*

- Where the function involves more than one portfolio, all relevant portfolio holders shall come together for a decision, and in default of agreement, the matter shall be referred to the Executive for decision*
- If the portfolio holder(s) think(s) the matter in question is of such a significance that the Executive should decide the matter, it should be referred to the Executive accordingly*
- If the Portfolio holder is in any doubt as to whether any matter properly falls within his, her or another portfolio holder's or other portfolio holders' functional responsibility or whether the matter is of such significance that the Executive should determine the matter, the*

*Leader shall rule accordingly (after consulting any persons the Leader may wish to consult) and such ruling shall be conclusive)*

**TABLE 3A**

<b>Service</b>	<b>Portfolio</b>	<b>Cross Cutting Corporate Objective</b>
Financial and HR Management Commercial Services Land (Non-Housing) and Buildings Council Tax and Benefits/ Rent Collection Support Services (Legal, Audit; Land Charges; Property Sales etc) Equal Opportunities as .Employer	<b>Resources and Staffing</b>	A quality workforce
Decision Making (including Elections)/Participation Policy, Research and Consultation Media and Information ICT Strategy Customer Services Equal Opportunities in Service Delivery	<b>Information and Customer Services</b>	Quality, affordable services meeting people's needs
<u>Conservation Policy</u>	<b>Conservation*</b>	
Environmental Health/Pollution Street Cleaning Waste Management/Recycling Personal Health Land Drainage Licensing Policy and Service	<b>Environmental Health</b>	Health (co2)
Housing Strategy and Services Housing grants Housing Land Homelessness	<b>Housing</b>	Village Character and Environment (co1)
Planning Policy and Service Transport/Car Parks Building Control Policy and Service Economic Development/ Business Partnerships Development Control Service	<b>Planning and Economic Development*</b>	
<u>Conservation Policy</u> Sustainability Community Strategy/Community Partnerships Rural Policy Anti Poverty Tourism	<b>Conservation, Sustainability and Community Planning</b>	Community Life (co1) Sustainability (co4)
Community Development Travellers Community Safety Leisure Milton Country Park	<b>Community Development</b>	Community Life (co1)

**Notes on Table 3A :-**

- ◆ **Joint arrangements:** The executive is also responsible for discharging the Council's functions of the following and reporting their activities to the Council:-
  - (a) **South Cambridgeshire Environment and Transport Area Joint Committee** and for the appointment of executive members to that Joint Committee, one of whom shall be the Planning and Economic Development portfolio holder;

- (b) **Cambridge City and South Cambridgeshire Joint Strategic Forum** and for the appointment of executive members to that Forum
- (c) **Cambridgeshire Councils' Association** and for the appointment of executive members to that Forum
- (d) **Crime and Disorder Partnership Group** and for the appointment of executive members to that Forum

**Table 3B: EXECUTIVE FUNCTIONS**

For decision by the whole Cabinet

For decision by Portfolio Holders

<b>Staffing Matters</b>	
<del>To approve the Annual Workforce Plan (for recommendation to Council</del> <u>To approve the service Continuous Improvement Plans (for recommendation to Council)</u>	<u>Resources and Staffing PFH to determine responsibilities and gradings/scales of new posts arising from Council approval of bids under Continuous Improvement Plans</u>
<b>Financial Matters</b>	
In place of existing reference to virement: <u>To approve virement where the affected PFHs have not agreed</u>	<u>Relevant PFHs to approve virement across 2 or more portfolios (with the Finance and Resources Director). See Rule 5, Budget and Policy Framework</u>
<u>To approve carry forward of uncommitted balances on reserve account for grants over 2 years old</u>	<u>To approve carry forward of uncommitted balances on reserve account for grants under 2 years old</u>
<b>Grants</b>	
Approve statutory or non-statutory grants, guarantees <u>or loans</u> above level 2 3	to approve non-statutory grants, or guarantees <u>or loans</u> above level 1 up to and including level 2 3.....
<b>Conferences/Appointments</b>	
<del>To approve the attendance of Members at residential conferences or external training events over and above those which portfolio holders or the Leader may approve</del>	Portfolio holders may attend <del>up to one residential and any number of non-residential</del> <u>such</u> courses or conferences as they see fit where these are funded from their own portfolio budget. <del>per year without approval by the Executive. This restriction does not apply to the Leader who may attend any number of such conferences or courses as required, subject to budget availability. and does not include attendance at the annual conference of the Local Government Association</del>
<b>Resources and Staffing PFH</b>	
To approve relevant strategies.... <del>Workforce Plan</del>	
<del>To recommend the Council Tax base to Council</del>	
<del>Approve arrangements for provision of external audit and audit plan</del>	
<b>Information &amp; Customer Services</b>	
<del>Approve arrangements for member training and support</del>	<u>To approve arrangements for member training and support (including IT support), together with approval of attendance of members at</u>

	<u>conferences or external training events beyond those allowed for portfolio holders and the Leader, where funded from the Democratic Representation budget</u>
<del>Recommend changes to number of parish councillors to Council</del>	
<del>Consider changes to parish boundaries and make recommendations to Council</del>	
<b>Conservation</b>	
<del>Approve Conservation Management Plan</del>	<u>Approve Conservation Management Plan</u>
<del>Approve programme of Conservation Area Appraisals</del>	<u>Approve programme of Conservation Area Appraisals</u>
<del>Recommend to Council designation of Conservation Areas or supplementary planning guidance</del>	<u>To recommend Conservation Area designation and agree supplementary planning guidance (e.g. Village Appraisal) where 1 parish only affected</u>
<b>Environmental Health</b>	
<del>Approve Air Quality Strategy and declaration of Air Quality Management Areas</del>	<u>To approve Air Quality Strategy and declaration of Air Quality Management Areas</u>
<del>Recommend Swavesey Byways Rate to Council</del>	
<b>Housing</b>	
<del>Approve changes to and variations of Conditions of Tenancy</del>	<u>To approve changes to and variations of Conditions of Tenancy</u>
76 <del>To approve or refused freehold or leasehold disposal.....Director of Housing and Community Environmental Services...</del>	
	<u>To approve in-year changes to the Housing Capital programme and allocation of LASHG to specific schemes....</u>
<b>Planning and Economic Development</b>	
<del>Approval of Supplementary Planning Guidance</del>	<u>To approve Supplementary Planning Guidance where 1 parish only is affected</u>

Notes to Grants:

Chief Officers have delegated powers to approve non-statutory grants up to Level 1 and to approve statutory grants up to and including Level 2 3.

[Delete reference to LASHG and examples of types of grant]

#### **Table 4 – Officer delegated powers**

Amend post titles as necessary; delete references to Development and Conservation Control Committee where powers do not rest with that Committee; and add powers relating to high hedges to those of the Conservation Manager.

## **PART 4 – RULES OF PROCEDURE**

### **Council Standing Orders**

The term “Standing Order” to be used throughout this section, rather than “Rule”, which appears in places.

## **Notice of and Summons to Meetings (SO 6)**

Amendments:

~~Subject to Rule 23(e), The proper officer 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 proper officer, if he or she is not the Chief Executive, will send a summons in the name of the Chief Executive, Finance and Resources Director by email and/or post to each member of the Council.....~~

## **QUESTIONS BY THE PUBLIC (Standing Order 10)**

### **10.1 General**

~~At the discretion of the Chairman, members of the public may ask questions of members of the executive~~ any member at ordinary meetings of the Council. A standard protocol to be observed by questioners is given in the footnote below.<sup>1</sup>

### **10.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the chairman may group together similar questions.

### **10.3 Notice of questions**

~~A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the proper officer no later than midday 5 6 days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put. The chairman may permit a question to be asked if shorter notice is given. If a substantive answer cannot be given at the meeting the chairman may refer the question to any other body of the Council or for a written response by the relevant member or Chief Officer.~~

### **10.4 Number of questions**

At any one meeting no person may submit more than one question but one supplementary question may also be asked. More than one question shall not be submitted on behalf of any organisation.

### **10.5 Scope of questions**

The proper officer may reject a question if it:

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- <sup>1</sup> 1. Questioners will not be permitted to raise the competence or performance of a Councillor or officer, nor any matter involving exempt information or normally considered 'confidential'. Questioners cannot make any abusive or defamatory comments.
  2. Each questioner must make it clear whether he or she is speaking as a private individual or as a representative of an organisation.
  3. If any clarification of what the questioner has said is required, the chairman will have the discretion to allow Councillors to ask questions.
  4. The questioner will not be permitted to participate in subsequent discussion and will not be entitled to vote.
  5. The chairman will decide when and what time will be set aside for questions depending on the amount of business on the agenda for the meeting. Normally questions will be dealt with as the first substantive item of the meeting. A maximum of ten minutes will be allowed for public questions on any specific agenda item.
  6. Individual questioners, to set the scene for their questions, will be permitted to speak for a maximum of three minutes.



- *is not about a matter for which the local authority has a responsibility or which affects the district;*
- *is defamatory, frivolous or offensive;*
- *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.*

#### 10.6 **Record of questions**

*The proper officer will keep a record of submitted questions open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.*

#### 10.7 **Asking the question at the meeting**

*The chairman will invite the questioner to put the ~~question to the member named in the notice~~. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.*

#### 10.8 **Supplemental question**

*A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.*

#### 10.9 **Written answers**

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

#### 10.10 **Reference of question to the executive or a committee**

*Where a question is not recorded in the agenda of a meeting, no discussion shall take place unless the provisions of urgency apply. Where a question is recorded in the agenda, no discussion will take place unless the chairman decides otherwise. However, any member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.*

#### **Questions by Members (SO 11)**

Amend Standing Order 11.4 (a) read:

*They have given to the proper officer at least ~~5~~ 6 working days notice in writing of the question; or...*

#### **Application to Executive, Committees and Sub-Committees (SO 23)**

Amend to read:

- (b) *None of the ~~rules~~ Standing Orders apply to meetings of the executive except Standing Order 10*

- (c) *Only ~~Rules~~ Standing Orders 5 – 9 and 11 – 23 (but not 20.1 (standing to speak)) apply to meetings of committees and sub-committees. Standing Order 10 shall apply to all executive meetings open to the public and all committee and sub-committee meetings open to the public which are not regulatory committees or sub-committees*
- (e) *Delete entirely*

### **Access to Information Procedure Rules**

Amend Rule 3 to read:

*Members of the public may attend all meetings subject only to the ~~exceptions in these rules~~ exclusions set out in Rule 10 (confidential and exempt information) or where an Advisory Group has determined that its meetings should not be open to the public.*

*At the discretion of the Chairman of Council, Cabinet or Scrutiny Committee, members of the public may ask questions at those meetings.*

*At the discretion of the Chairman, members of the public may make a further statement at Scrutiny Committee meetings on matters relevant to that Committee.*

*Subject to Rule 10, a UNISON representative.....*

Add to Rule 10.4, meaning of exempt information, the following:

16. Information relating to the personal circumstances of any person.
17. Information which is subject to any obligation of confidentiality.
18. Information which relates in any way to matters concerning national security.
19. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 64(2) of 71(2) of the Local Government Act 2000

### **Executive Procedure Rules**

Amend paragraph 4(b) to:

*Advisory Groups should normally not exceed 7-9 elected members...*

### **Financial Regulations**

Amend paragraph 2,1(ii) to:

- c) *Preparing the annual Statement of Accounts for approval by the ~~Executive~~ Council.*

### **Contract Standing Orders**

The term "Standing Order" to be used throughout this section, rather than "Rule", which appears in places.

## Opening

Amend paragraph 8.1 to:

*Tenders shall be opened at ~~one~~ a designated time and by officers from an appropriate department and officers from the Chief Executive's or Finance and Resources departments designated at the time for the purpose by the Chief Officer. For this purpose no officer ~~below~~ the grade Principal Officer salaried below scale point 30 shall be authorised to open tenders.*

## Legal Proceedings Rules

Add the following wording to Rule 2.2:

*On behalf of the Council, the Chief Executive may nominate under any statutory enactment in that behalf of any officers who may appear in Court or Tribunal to represent the Council, may withdraw such authorisation for any reason and shall do so in any event on respective termination of employment with the Council. The Head of Legal Services will maintain an up to date list of such nominees including the dates of appointment and withdrawal/ termination.*

## Delegation Rules

### Additional Rule 1.3.3

*Every Portfolio Holder shall have full power to take executive decisions on any matter within his or her portfolio responsibility, except as may be referred by him or her to the Executive or reserved to it by the Executive. Part 3 of this constitution sets out the responsibility of Council functions and Tables 3A and 3B those of the Executive. Those Tables set out in some detail which functions are presently reserved to the Executive as a whole and which are delegated to portfolio holders. Where no reference is specifically made in Table 3B to any function of executive discretion, it shall be within the power of the relevant portfolio holder to determine any matter or thing within the ambit of the respective portfolio but subject to the following overall criteria which shall also apply to those functions specifically delegated:*

- *Where the function involves more than one portfolio, all relevant portfolio holders shall come together for a decision, and in default of agreement, the matter shall be referred to the Executive for decision*
- *If the portfolio holder(s) think(s) the matter in question is of such a significance that the Executive should decide the matter, it should be referred to the Executive accordingly*
- *If the Portfolio holder is in any doubt as to whether any matter properly falls within his, her or another portfolio holder's or other portfolio holders' functional responsibility or whether the matter is of such significance that the Executive should determine the matter, the Leader shall rule accordingly (after consulting any persons the Leader may wish to consult) and such ruling shall be conclusive)*

### **Addition to Rule 6.0(a) (General Delegated Powers and Proper Officer Responsibilities)**

*Where there is doubt as to whether a power exists or existed, the Chief Executive shall, after consulting any members of the Executive or any relevant Chairmen of Committees, advise and may certify in writing accordingly. Such certificate shall be conclusive for all purposes.*

### **Amend Rule 7, Limit of Approvals of Grants by the Council, to read**

*No grant exceeding Level ~~2-3~~, even within budget and policy, shall be sanctioned other than by the ~~executive~~ Cabinet as a whole. No Chief Officer....., nor any statutory grant exceeding Level ~~2 3~~.*

## **PART 5 – CODES AND PROTOCOLS**

New section:

### **Procedure at Hearings of Standards Committee**

#### **1. Panels**

- (1) *The Standards Committee shall discharge its function of hearings by ad hoc Panels consisting of THREE members of the Committee*
- (2) *The membership of each Panel shall be chosen by the Chairman of the Standards Committee or, in the absence of the Chairman, the Vice-Chairman*
- (3) *There shall be no criteria for selection except as follows:*
  - a. *No one shall be chosen having any prejudicial interest or who has had any previous substantive connection with the matter*
  - b. *If the subject member is a parish councillor at least one member of the Panel shall, [so far as practicable]<sup>2</sup>, be a Parish Member*
  - c. *At least one member of the Panel shall, so far as practicable, be an Independent Member*
  - d. *If neither Independent Member is selected, for whatever reason, then at least one member of the Panel shall, so far as practicable, be the Chairman or Vice-Chairman of the Standards Committee*
  - e. *All Panel members must have undergone appropriate training*
- (4) *The Chairmanship of the Panel shall normally be in order as follows: Independent Member, Chairman of the Standards Committee, Vice-Chairman of the Standards Committee. Where circumstances require the Panel to agree a different priority, it shall be entirely a matter for the Panel members to agree amongst themselves*

#### **2. Representation**

- (1) *any member who is the subject of a report or reference being considered by the standards committee (called the 'subject member') shall be given an opportunity to present evidence in support of his case and shall be given the opportunity to make representations at the hearing –*
  - (i) *either orally or, if he so chooses, in writing; and*
  - (ii) *either himself or, if he so chooses, through any representative appointed by him pursuant to paragraph (2).*
- (2) *Any subject member may be represented by counsel, by a solicitor or, with the prior consent of the Chairman of the Panel, by any person whom he wishes to represent him.*

#### **3. Witnesses**

- (1) *The Panel may arrange for the attendance at a hearing of such witnesses as it deems appropriate.*
- (2) *Subject to paragraph (3), a subject member may arrange for the attendance at that hearing of such witnesses as he wishes.*

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<sup>2</sup> At present, the requirement for a Parish Member to be included is absolute where a Parish Councillor is the subject member. This may present problems if there will have been any previous substantive involvement by **both** of the two Parish Members unless all the parties agree one, at least, may sit.

- (3) *The Panel may place a limit on the number of witnesses a member may call if it is of the view that the number the member proposes to call is unreasonable.*

1. **Order of Business**

- (1) *All relevant parties, including the Monitoring Officer, the subject member and the Ethical Standards Officer (if any), and their representatives (if any) should be present in the meeting room before the start of the hearing. The Panel Members will then be brought into the room by the Clerk or the legal adviser to the Panel. To avoid the appearance of bias, the Panel should not as a matter of practice remain in the hearing room in the presence only of one of the parties except for purely administrative purposes.*
- (2) *The order of business at the Meeting shall be as follows:*
- a. *introduction of the Panel, the legal adviser to the Panel<sup>3</sup>, the Monitoring Officer and the subject member and any representative of the subject member;*
  - b. *declarations of interest;*
  - c. *representations from the Monitoring Officer and the subject member as to reasons why the Panel should exclude the press and public and determination by the Panel as to whether to exclude the press and public – [see Appendix 2](#);*

*[The procedure until paragraph k. shall consider only if the subject member has acted in breach of the relevant code of conduct].*

- d. *presentation by the subject member. The subject member may introduce witnesses required to substantiate any matter contained in his/her written statement in response. Members of the Panel may question the subject member and any witness on their evidence. There shall be no cross-examination by the subject member, but the Monitoring Officer may request the Chairman of the Meeting to direct appropriate questions to the subject member or to any witness whom the subject member has introduced.<sup>1</sup>*
- e. *Where the subject member seeks to dispute any matter in the Monitoring Officer's report which he/she had not given notice of intention to dispute in his/her written statement in response, the Monitoring Officer shall draw this to the attention of the Panel. The Panel may then decide:*
  - i. *not to admit such dispute but to proceed to a decision on the basis of the information contained in the Monitoring Officer's report;*
  - i. *to admit the dispute, but invite the Monitoring Officer to respond thereto, recalling any witness as necessary; or*
  - ii. *to adjourn the meeting to enable the Monitoring Officer to investigate and report on the dispute and/or to arrange for the attendance of appropriate witnesses as to the disputed information ;*
- f. *presentation by the Monitoring Officer of his/her report, including any reference by an Ethical Standards Officer. The Monitoring Officer may introduce any witnesses relevant to any matter contained in that report which the subject member has disputed in his/her written statement in response. Members of the Panel may question the Monitoring Officer and any witness on their evidence. There shall be no cross-examination by the subject member, but the subject member may request the Chairman of the Panel to direct*

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<sup>3</sup> The function of providing independent legal advice to the Panel is quite distinct from the investigatory and reporting function of the Monitoring Officer, and accordingly the Panel will require legal advice independent of the Monitoring Officer. It shall be the normal practice for a principal legal officer, even if that individual may be the deputy Monitoring Officer, to advise the Panel and to sit with the Clerk, provided he or she has taken no other substantive part in the matter at the hearing or any preliminary stage.

appropriate questions to the Monitoring Officer or to any witness whom the Monitoring Officer has introduced;<sup>1</sup>

- g. at the conclusion of the presentation by the subject member, the Chairman shall ask the Monitoring Officer whether there was any matter raised during the course of that presentation which was not raised in the subject member's written statement in response. The Monitoring Officer may then respond to any such new matter, or may request the Panel to adjourn to enable him/her to investigate and report on that new matter and /or to secure the attendance of witnesses as to the new matter;
- h. the Panel is required to come to a decision as to whether the subject member acted in breach of the relevant code of conduct. Accordingly, they have to satisfy themselves that they have sufficient information upon which to take that decision, and they may question the Monitoring Officer, the subject member and any witness in order to obtain sufficient information to enable the Panel to come to a decision on this issue;
- i. at the conclusion of the presentations of the Monitoring Officer and of the subject member and any questions from the members of the Panel, the members of the Panel will adjourn into another room (or may ask all others present to leave the hearing room) where they will consider in private session whether the member has acted in breach of the relevant code of conduct. At any stage in their consideration they may return (or invite the others to return to the hearing room) to ask any further questions of the Monitoring Officer or the subject member or to seek legal advice;
- j. the Panel may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Monitoring Officer and the subject member; the legal adviser may, if requested by the Chairman, assist the Panel, in private, only in the formulation of its reasons but will tell the Clerk, the subject member and the Monitoring Officer beforehand;
- k. at the conclusion of their consideration, the Panel will return (or invite the others to return to the hearing room) and the Chairman will advise the Monitoring Officer and the subject member of their decision as to whether or not the subject member has acted in breach of the relevant code of conduct, and the reasons for that decision [[Paragraph 4 of Part I of the Procedures](#) applies];

[The procedure hereafter applies if a breach of relevant code of conduct has been found].

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<sup>1</sup> i.e. all questioning of witnesses of the other party will be through the Chairman, reflecting the fact that, notwithstanding the use of terms like 'witnesses' 'breach' and 'evidence', the proceedings are essentially investigatory and not litigious.

- l. *if the Panel concludes that the subject member has acted in breach of the relevant code of conduct, the Panel will then hear representations from the Monitoring Officer and then the subject member as to whether the Panel should take any action against the subject member and what form any action should take; [Paragraph 4 of Part I of the [Procedures](#) applies]. Members of the Panel may ask questions of the Monitoring Officer and the subject member and seek legal advice in order to satisfy themselves that they have the information upon which to take a proper decision, including any relevant previous findings of Code breaches;*
  - m. *the Panel will then adjourn into another room (or may ask all others present to leave the hearing room) where they will consider in private session whether to take any action against the subject member and what form such action should take, and will then return (or invite the others to return to the hearing room) and the Chairman will advise the Monitoring Officer and the subject member of their decision as to what action (if any) they have decided to take against the subject member and the reasons for that decision;*
  - n. *the Panel shall consider whether there are any recommendations which the Panel should make arising from their consideration of the complaint, for example for providing recompense to any person who has suffered detriment as a result of the breach of the relevant code of conduct or related matters, for reviewing or reconsidering any decision which was the subject of the breach of the relevant code of conduct, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the relevant code of conduct.*
- (3) *If any finding is made by the Panel against the subject member, that member shall be advised forthwith that there is a right to seek, by notice in writing given within 21 days to the President of the Adjudication Panel for England, permission to appeal specifying the reasons for the appeal and whether or not the member consents to the appeal being conducted by way of written representations.*
- (4) *The member shall be provided with a copy of the prescribed form of application for permission to appeal and the address of the Office of the Adjudication Panel for England namely 23 Victoria Avenue, Harrogate, North Yorkshire HG1 5RD. Tel: 01423 538783. [enquiries@adjudicationpanel.co.uk](mailto:enquiries@adjudicationpanel.co.uk). Fax 01423 525164.*

New section

## **PETITIONS – PROCEDURAL GUIDANCE**

### **Definition**

1. *For the purposes of this procedural guidance, a petition is defined as a document embodying a formal written request for some form of action or the consideration of some matter by the Council.*

### **Scope**

2. *Petitions must be relevant to some matter relating to which the District Council has powers or duties, or is of general concern affecting the district or part of the district, its Council Tax or National Non-domestic rate (NNDR) payers.*
3. *Petitions relating to applications for a permission, consent or licence yet to be determined will be reported to the relevant regulatory committee with other responses to consultation.*

### **Eligibility**

4. *The District Council will not accept petitions that are abusive or libellous; frivolous, vague or ambiguous; require the disclosure of confidential or exempt information or are otherwise considered to abuse the Council's powers, duties or obligations. It will not accept a petition,*

*which is substantially the same as a petition, or public question, which has been put to a meeting during the preceding six months.*

5. *Petitions will not be admissible where the matter involves a right of appeal to the courts, a tribunal or a Government Minister. Employees should use existing grievance/appeal procedures on matters relating to terms and conditions of employment.*
6. *To be accepted by the District Council, a petition must bear at least 20 signatures of people who either live or work in the District unless the law otherwise provides.*
7. *The interpretation of the eligibility criteria by the Chief Executive, the Leader of the Council and the Chairman of the Scrutiny Committee shall be final.*

#### **Form**

8. *The petition shall clearly state the purpose for which it is submitted and shall be addressed to the District Council.*
9. *It shall contain the name, address and signature of each person who signed it. The name and address shall be in a legible format. It shall also specify a contact name and address.*

#### **Procedure**

10. *The petition, save those referred to at paragraph 3, shall be sent to the Chief Executive. If relevant, it may be copied to the local District Councillor/s.*
11. *The Chief Executive, the Leader of the Council and the Chairman of the Scrutiny Committee will consider the content and determine the proper forum for its presentation. If the subject matter relates to a particular locality, a copy of the petition will be sent to the local councillor/s, and if to a particular service, to the relevant Director*
12. *Acknowledgement of receipt of the petition will be sent no later than the working day following its receipt. Notice of the forum for presentation will be sent within 5 working days of its receipt.*
13. *A petition may be considered by full Council, Cabinet, Scrutiny Committee or an Advisory Group depending on the subject matter and the timing of relevant meetings. The meeting considering the petition may refer it to any other body of the Council for action.*
14. *Agenda for full Council will include a formal announcement of all petitions received under this procedural guidance since the last Council meeting.*
15. *The lead petitioner or nominee as identified on the petition will be invited to speak at the meeting at which it is presented for no more than five minutes and may be questioned by councillors for no more than five minutes. The period for questions may be extended at the discretion of the chairman. The petitioner is not entitled to take part in any debate on the matter but will be given the opportunity to give a 2-minute summation speech.*
16. *If it is intended that the petition will form supporting evidence to a public question to a meeting in accordance with the constitution, rather than being presented in its own*
17. *right, the rules and guidelines for public questions as set out in the Council Rules of Procedure shall be followed.*

*Following the relevant meeting, the lead petitioner will be advised of the Council's decision on the petition*



## **Officers Code of Conduct**

Combine paragraphs 7.1 and 7.2 to read:

*Employees must declare to an appropriate manager, as soon as they are aware, any financial or non-financial interests which could conflict with the Authority's interests and must register those interests on a database maintained by Democratic Services. The register is checked annually and a reminder sent to all staff*

## **Guidance for Licensing Committee**

Training to be mandatory for members who wish to sit on the Licensing Committee.

APPENDIX B

## **ROLE PROFILE FOR COUNCILLORS**

### Purposes

1. To participate constructively in the good governance of the area.
2. To contribute positively to the formation and scrutiny of the Council's policies, budget, strategy 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 local causes.
5. To represent the Council on any outside body to which the councillor is appointed.
6. To represent the Council to the community and the community to the Council, promoting good working relationships with relevant parish councils.
7. To assist where possible individual constituents in their dealings with the Council.
8. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints.
9. To develop good working relationships with relevant officers of the Council.
10. To encourage community participation in the government of the area.
11. To participate where appropriate in any consultative processes with the community and with other organisations.