

# **PART 4**

## **RULES OF PROCEDURE**

## **RULES OF PROCEDURE AT FULL COUNCIL**

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## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and business**

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) elect a person to preside if the Mayor and Deputy Mayor are absent, with such a person not being a member of the Executive;
- (ii) receive apologies for absence;
- (iii) receive any declarations of interest from councillors;
- (iv) elect the Mayor and Deputy Mayor;
- (v) approve the minutes of the last meeting;
- (vi) receive any announcements or communications from the Mayor and/or the Chief Executive;
- (vii) elect the Leader and Deputy Leader;
- (viii) note the Members of the Executive as appointed by the Leader of the Council (only when the Members of the Executive's terms of office have expired or where there is a vacancy amongst the members of the Executive);
- (ix) report regarding the discharge of executive functions for the year ahead;
- (x) appoint committees and to appoint s and Vice-s of committees for the municipal year, in accordance with 1.2 below;
- (xi) approve the calendar of meetings for the municipal year;
- (xii) make appointments to outside bodies except where a body is delegated by the Council; and
- (xiii) consider any other business set out in the notice convening the meeting.

### **1.2 Selection of councillors on committees, other meetings and outside bodies**

At the annual meeting, the Council will –

- (a) decide which committees to establish for the municipal year, including the size of those committees;
- (b) decide the allocation of seats to political groups in accordance with the political balance rules;
- (c) appoint councillors to service on each committee, including the man and Vice man and substitute councillors who may exercise the powers set out in Rule ?? of these rules;
- (d) appoint to those committees and outside bodies, except whether appointments to these bodies have been delegated by the Council or are exercisable by the Executive.

Before the Annual Meeting of the Council and at any other time that a review of the allocation of seats is required, the Chief Executive shall consult Group leaders on the membership of committees and report to the Annual or next following meeting of the Council. Such consultations and report shall determine the allocation to the different political groups and recommend such appointments to give effect to the wishes of the political groups.

A political group shall contain a minimum of two councillors in order to be recognised for proportionality. The group leaders will notify the Chief Executive, in writing, of the membership of each group.

### **1.3 Dissolution of Committees and Sub-Committees**

Any Committee or Sub-Committee may be dissolved by the Council at any time save that the Council must have at least one Overview and Scrutiny Committee.

## **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) receive apologies for absence;
- (iii) receive any declarations of interest from councillors;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements or communications from the Mayor, the Leader or the Chief Executive;
- (vi) receive any petitions;
- (vii) receive questions from the public for reply by the Leader under Rule 10;
- (viii) receive questions on notice from Members for reply under Rule 11;
- (ix) receive reports from the Leader and individual Portfolio Holders and receive questions and provide answers on any of those reports;
- (x) receive reports from the Council's committees and receive questions and provide answers on any of those reports;
- (xi) consider notices of motion submitted in accordance with Rule 12 in the order in which they are recorded as having been received;
- (xii) consider any other business specified in the summons to the meeting;
- (xiii) receive any reports that the Chief Executive, Monitoring Officer or Section 151 Officer consider appropriate;
- (xiv) deal with any business required by statute to be done;
- (xv) dispose of business (if any) remaining from the last meeting;
- (xvi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xvii) debate issues on the state of the Borough if called under Rule 14.

## **3. EXTRAORDINARY MEETINGS**

### **3.1 Calling extraordinary meetings**

The Chief Executive may call an Extraordinary Meeting of the Council. In addition 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 Leader
- (iii) the Monitoring Officer; and
- (iv) any eight members of the Council if they have signed a requisition presented to the Mayor 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.

### **3.2 Business**

The business to be transacted at an extraordinary meeting shall be limited to that contained in the

request to call the meeting.

#### **4. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Council and notified in the summons sent by the Chief Executive.

#### **5. 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 working days before a meeting, the Chief Executive will send a summons signed by them (by an appropriate method) via a Pendle email address to every Member of the Council. 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.

#### **6. CHAIRING THE MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor or Chair. Any power or duty of the Mayor or man in relation to the conduct of the meeting may be exercised by the Deputy Mayor or Vice man, or in the absence of the Deputy Mayor or Vice man, the person elected to preside at the meeting. Where these rules apply to committee and sub-committee meetings, references to the man also include the s of committees and sub-committees.

#### **7. QUORUM**

The quorum of a meeting will be one quarter of the whole number of members entitled to attend. 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 they do not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **8. QUORUM OF COMMITTEES**

The quorum of a committee is one quarter of the whole number of the committee bus shall not be less than three voting councillors.

#### **9. DURATION OF MEETING**

Unless the majority of members present vote for the meeting to continue with all or any of the remaining business, any meeting that has lasted for three hours will adjourn immediately. Remaining business will be considered at a date and time fixed by the Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **9. PRESENTATION OF PETITIONS**

A member of the public may present a petition on any matter relevant to the Borough on giving notice to the Chief Executive at least seven clear days before the meeting. The presentation of the petition shall take place as soon as practicable after the start of the meeting. The person presenting the petition may speak for up to five minutes in support of the petition.

## **10. QUESTIONS FROM THE PUBLIC**

### **10.1 General**

Members of the public may ask questions of the Mayor, Leader of the Council, Executive Member or Chair of a Committee at ordinary meetings of the Council during a period of up to 30 minutes set aside for this purpose.

### **10.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the Mayor/Leader 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 Chief Executive no later than noon six clear working days before the day of the meeting.

### **10.4 Number of questions**

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation.

### **10.5 Scope of questions**

Each question must provide the following information:

- Name and address and contact details of the person asking the question;
- The name of an organisation if the question is being asked on their behalf, along with contact details;
- Details of the question to be asked;
- The name or position of the member of the Council to whom the question is directed to.

The Monitoring Officer may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which the Council has powers or duties or which affect the borough;
- 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 unless there has been a material change of circumstances;
- relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action; or
- requires the disclosure of confidential or exempt information.

### **10.6 Record of questions**

The Chief Executive will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection and the questioner will be so informed.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

## 10.7 Asking the question at the meeting

The Mayor will invite the questioner to put the question and these will be asked in the order they were received. The questioner must read out the question in person and this must be put strictly in the form in which was submitted. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on 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 Supplementary question

A questioner who has put a question in person may also put one supplementary question without notice to the person who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 10.5 above or if the time limit in Rule 10.1 has expired.

## 10.9 Written answers

Any question which cannot be dealt with during public question time will be dealt with by a written answer.

## 10.10 Reference of questions to the Executive or a Committee

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee. Once seconded, such a motion will be voted on without discussion.

## 10.11 Public Question Time

Public question time will be limited to 30 minutes in total; each questioner will be allocated not more than 5 minutes, 3 minutes for the original question and 2 minutes for one supplementary question. The response to any question will not exceed 3 minutes for the initial question and 2 minutes for the supplementary question.

# 11. QUESTIONS BY MEMBERS

## 11.1 On reports of the Executive or Committees

A member of the Council may ask the Leader, Executive Member or Member of a Committee any question without notice upon an item relevant to their responsibilities. The Leader, Executive Member or of a Committee shall each have no more than **10 minutes** to respond to such questions and any supplementary questions that may be asked.

Each Councillor may ask of each portfolio holder no more than one question and a related supplementary question.

## 11.2 Questions on notice

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

- \* the Mayor;
- \* the Leader;

- \* an Executive Member;
- \* the man of any committee; or
- \* any Member appointed to a joint committee or external organisation

a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which is not otherwise before the meeting. The question shall be put without discussion.

### **11.3 Questions on Notice at Committees and Sub-Committees**

Subject to Rule 11.4 below, a Councillor who is a member of a committee or sub-committee may ask a question on any matter in relation to which the Council has powers or duties or which affect and which fall within the terms of reference of that committee or sub-committee

The scope of the questions will be the same as in Rule 10.5 (Scope of Questions).

### **11.4 Notice of questions**

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

- (a) they have given notice at least three clear working days' notice in writing or by electronic mail of the question to the Chief Executive; or
- (b) the question relates to urgent matters; they have the consent of the Mayor and the content of the question is given to the Chief Executive by noon on the day of the meeting.

### **11.5 Response**

An answer to a question under Rule 11.1, 11.2 and 11.3 may take the form of:

- (i) a direct oral answer or a refusal to answer;
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (iii) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and reproduced in an appendix to the minutes of the meeting.

There shall be no discussion on the answer.

### **11.5 Supplementary questions**

Any Member may ask one supplementary question without notice to the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put without discussion. The number of such supplemental questions which may be asked shall be at the discretion of the Mayor. The responding Member shall answer once all the supplemental questions have been asked.

### **11.6 Time limit**

The total time allowed for asking and replying to questions and supplemental questions under the above sub paragraphs of this Rule 11 shall not exceed thirty minutes in any meeting. Any unanswered questions at the end of that time will be answered in writing and copies of the answers will be sent to all members of the Council and reproduced as an appendix to the minutes.



## **12. MOTIONS ON 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(s) giving it, must be delivered to the Chief Executive and the Monitoring Officer by electronic mail not later than 5 p.m. six clear working days before the date of the meeting. These will be entered in a record open to for public inspection on the Council's website. The submitted motions, maximum two per Group and one per elected Member, shall be subject to verification to the satisfaction of the Monitoring Officer.

### **12.2 Motion set out in the agenda**

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

### **12.3 Scope**

Motions must be about matters for which the Council has a responsibility or which directly affect the Pendle area and should not concern a matter that has been before Council within the preceding six months unless there has been a material change of circumstances. The motions should not seek to amend the agreed revenue for the Council.

### **12.4 Advance Notice of the Budget Proposals at the Budget Council Meeting**

- (a) At a Special Budget Council meeting no revenue budget proposal which is not apparent from the agenda and reports for the meeting, may be moved by way of motion or amendment, unless written notice of it, signed by the Member(s) giving it, has been delivered to the Chief Executive not later than 5.00 p.m. five clear working days before the date of the meeting.
- (b) The Chief Executive shall list such motions or amendments in the order in which they were received and shall circulate them to all Members as soon as practicable.
- (c) Where the Mayor considers there are exceptional circumstances he may put to the meeting that this Rule of Procedure be suspended and the matter shall be decided by a simple majority of those Members voting and present in the room at the time the question is put.

## **13. EMERGENCY MOTIONS**

The Mayor should seek the advice of the Monitoring Officer before accepting an emergency motion.

## **14. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (i) to appoint a Chair of the meeting at which the motion is moved;
- (ii) in relation to the accuracy of the minutes;
- (iii) to receive reports, or to adopt or otherwise recommendations of the Executive or committees, or to accept or otherwise recommendations contained in a report submitted by an officer;

- (iv) to withdraw a motion;
- (v) to proceed to the next business;
- (vi) that the question be now put;
- (vii) to adjourn a debate;
- (viii) to adjourn a meeting;
- (ix) that the meeting continue beyond 3 hours from the start of the meeting;
- (x) to suspend a particular Council procedure rule;
- (xi) to exclude the public and press in accordance with the Access to Information Rules;
- (xii) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and
- (xiii) 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 Secunder's speech**

When seconding a motion or amendment, a Member may not reserve their speech until later in the debate.

### **14.3 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Other than a speech by the Leader on the work of the Executive or by a person who presided at a meeting in reply to questions asked of him/her under Rule 11.1 no speech may exceed 5 minutes without the consent of the Mayor.

### **14.4 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:

- (i) to speak once on an amendment moved by another Member;
- (ii) to move a further amendment if the motion has been amended since he/she last spoke;
- (iii) 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);
- (iv) in exercise of a right of reply;
- (v) on a point of order; and
- (vi) by way of personal explanation.

### **14.5 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and must 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) 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 provided that the Mayor may permit two or more amendments to be discussed (but not voted upon) together if he/she thinks this will facilitate the proper conduct of business.
- (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.

#### **14.6 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.

#### **14.7 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.

#### **14.8 Right of reply**

- (a) Either the mover or the seconder of a motion may 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 have the right of reply before the mover of the original motion replies at the end of the debate on the amendment.

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

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

- (i) to withdraw a motion;
- (ii) to amend a motion;
- (iii) to proceed to the next business;
- (iv) that the question be now put;
- (v) to adjourn a debate;

- (vi) to adjourn a meeting;
- (vii) to exclude the public and press in accordance with the Access to Information Rules; and
- (viii) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### **14.10 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/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.

#### **14.11 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 at the outset state the rule or law he/she considers has been broken before explaining the point of order. A member may not, upon raising a point of order, express differences of opinion with, or contradict a speaker on the question before the meeting. The ruling of the Mayor on the matter will be final.

#### **14.12 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. A member may not, upon a personal explanation, otherwise comment upon or answer the speech of another member to seek to clarify or add to his/her former speech. The ruling of the Mayor on the admissibility of a personal explanation will be final and not open to discussion.

#### **14.13 Disclosable Pecuniary Interests**

If a Member has a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting, and they are aware of this fact, they must not participate, or participate further, in the discussion of the matter at the meeting or participate in any vote on the matter at the meeting. They must also leave the room while the discussion and vote take place on the matter

concerned.

## **15. STATE OF THE BOROUGH DEBATE**

### **15.1 Calling of debate**

A political group leader may call a state of the Borough debate in a form and to be held at a point in the meeting to be agreed with the Mayor and other political group leaders.

### **15.2 Form of debate**

The form of the debate will have the aim of enabling the widest possible public involvement and publicity.

### **15.3 Chairing of debate**

The debate will be chaired by the Mayor.

### **15.4 Results of debate**

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area.

## **16. PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved.

### **16.2 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.

## **17. VOTING**

### **17.1 Majority**

Unless this Constitution or the law 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 is put.

### **17.2 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.

### **17.3 Show of hands**

Unless a ballot or recorded vote is demanded under Rule 17.4 or 17.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

## **17.4 Recorded vote**

17.4.1 If two Members 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.

17.4.2 Immediately after any vote is taken at a budget decision meeting of the Council there will be recorded in the minutes of the proceedings of that meeting the names of the Members who cast a vote for the decision for or against the decision or who abstained from voting.

## **17.5 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.

## **17.6 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.

## **18. MINUTES**

### **18.1 Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only question on the minutes that can be discussed is their accuracy.

### **18.2 No requirement to sign the 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.

### **18.3 Form of minutes**

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

## **19. 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.

## **20. 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 22 (Disturbance by Public).

## **21. MEMBERS' CONDUCT**

### **21.1 Standing to speak**

When a Member speaks he/she 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.

### **21.2 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.

### **21.3 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.

### **21.4 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.

### **21.5 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.

## **22. DISTURBANCE BY PUBLIC**

### **22.1 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.

### **22.2 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 and may adjourn the meeting for so long as he/she thinks necessary.

## **23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **23.1 Suspension**

All of these Council Rules of Procedure except Rule 17.5 and 18 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.

## 23.2 **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.



## **RULES OF PROCEDURE AT COMMITTEE MEETINGS**

1. SCOPE
2. BUSINESS
3. TIME AND PLACE OF MEETINGS
4. NOTICE OF AND AGENDA FOR MEETINGS
5. ING MEETINGS
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7. DURATION OF MEETINGS
8. PRESENTATION OF PETITIONS
9. PUBLIC RIGHT TO SPEAK AT MEETINGS
10. CONDUCT OF MEETINGS
11. DISCLOSABLE PECUNIARY INTERESTS
12. VOTING
13. MINUTES
14. RECORD OF ATTENDANCE
15. CHANGE OF POLITICAL GROUP REPRESENTATION
16. RIGHT OF MEMBERS TO ATTEND AND SPEAK
17. CO-OPTION
18. DISTURBANCE BY PUBLIC
19. RESTRICTION ON APPOINTMENT OF SUB-COMMITTEES

## **RULES OF PROCEDURE AT COMMITTEE MEETINGS**

### **1. SCOPE**

- 1.1 These rules apply to meetings of committees, subject to any provision to the contrary in this constitution of law.
- 1.2 The spirit of the rules shall apply to meetings of ad hoc panels, working groups etc., as far as practicable.

### **2. BUSINESS**

- 2.1 The order of business at a meeting shall be to:-
  - (i) elect a person to preside if the man and Vice-man are not present;
  - (ii) receive any declarations of interests from Members;
  - (iii) for a maximum of 15 minutes receive questions from members of the public on matters not on the agenda for the meeting, and where possible reply to those questions;
  - (iv) approve the minutes of the last meeting;
  - (v) consider other business listed on the agenda for the meeting, and any other business which the man considers should be dealt with as a matter of urgency pursuant to s100B(4) of the Local Government Act 1972.
- 2.2 The order of business may be varied at the discretion of the man.

### **3. TIME AND PLACE OF MEETINGS**

- 3.1 Meetings will ordinarily start at 6.30 p.m. unless the Committee Chair decides otherwise.
- 3.2. Meetings will be held at such venues as the Committee may determine.

### **4. NOTICE OF AND AGENDA FOR MEETINGS**

- 4.1 The Head of Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 4.2 The Head of Democratic Services will send a copy of the agenda and accompanying reports to each member of the Committee, and a copy of the agenda to other members of the Council in either paper form or electronically.

### **5. CHAIRING MEETINGS**

- 5.1 The Chair of committees shall be appointed by the Council.
- 5.2 An Area Committee shall appoint a Chair from the members of the Council on the Committee. Where a political group has more than half of the members of an Area Committee, that Committee shall appoint the nominees of that group as Chair and Vice-

Chair. Where no political group has more than half of the members of an Area Committee, that Committee may appoint any members of the Committee as Chair and Vice-Chair.

5.3 The committees may appoint a Vice-Chair from amongst the members of the Council on the committee.

5.4 In the absence of the Chair and Vice-Chair, a committee shall appoint a person to preside from the members of the Council on the Committee.

## **6. QUORUM**

6.1 The quorum of a meeting of a committee shall be one third of the voting membership.

6.2 During any meeting if there is not a quorum present, then the meeting will adjourn immediately and remaining business will be considered at the next ordinary meeting.

## **7. DURATION OF MEETINGS**

7.1 Unless the majority of Members present for the meeting vote to continue with all or any of the remaining business, any meeting that has lasted for a duration of 3 hours will adjourn upon conclusion of the item then under consideration. Remaining business will be considered at the next ordinary meeting.

## **8. PRESENTATION OF PETITIONS**

8.1 A member of the public may present a petition on any matter relevant to the Borough, or an area of the Borough, at a meeting of an appropriate committee.

8.2 The presentation of the petition shall take place at an appropriate point in the meeting to be determined by the Chair. The person presenting the petition may speak for up to five minutes in support of the petition.

8.3 Unless receipt of the petition has been included on the agenda, or the petition relates to an item on the agenda, it shall stand referred without discussion to the next meeting of the Committee.

8.4 Where a petition is sent to a Council office, it shall be forwarded to the Head of Democratic Services who shall arrange for it to be reported to the next meeting of the appropriate committee.

8.5 The Head of Democratic Services shall maintain a record of all petitions presented or received.

## **9. PUBLIC RIGHT TO SPEAK AT MEETINGS**

9.1 A member of the public may on giving notice address a committee on any matter on the agenda for a meeting, except where the public and press have been excluded from the meeting during consideration of the matter.

9.2 He/she shall normally be heard immediately prior to the discussion of the matter, at the discretion of the man.

- 9.3 His/her speech shall be limited to five minutes and this may be further curtailed by the Chair if the number of persons wishing to speak is so large as to impede the conduct of business at the meeting. He/she may not speak again on the same matter, other than to answer any questions from members of the committee.
- 9.4 Notice of a wish to speak shall be given verbally or in writing by 12:00 noon on the day of the meeting to the Committee Services and shall specify the matter in question. On non-planning matters, the Chair at his/her discretion may allow a member of public to speak without having given such notice.
- 9.5 A record of all persons exercising the right to speak shall be included in the minutes of the meeting.
- 9.6 Appropriate information on the public right to speak shall be included on public notices for meetings.

## **10. CONDUCT OF MEETINGS**

- 10.1 The conduct of meetings shall as far as practicable be based on the spirit of the Rules of Procedure at Full Council.
- 10.2 All motions and amendments which have been moved and seconded shall be put to the vote unless withdrawn by the mover.
- 10.3 Subject to Rules 10.1 and 10.2 above, the ruling of the Chair shall be final.

## **11. DISCLOSABLE PECUNIARY INTERESTS**

If a Member has a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting, and they are aware of this fact, they must not participate, or participate further, in the discussion of the matter at the meeting or participate in any vote on the matter at the meeting. They must also leave the room while the discussion and vote take place on the matter concerned.

## **12. VOTING**

- 12.1 Any matter will be decided by a simple majority of those Members present and voting.
- 12.2 Voting shall be by show of hands.
- 12.3 The Chair will have a second or casting vote.
- 12.4 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.

## **13. MINUTES**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only question on the minutes that can be discussed is their accuracy.

## **14. 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.

## **15. CHANGE OF POLITICAL GROUP REPRESENTATION**

Where a committee is subject to the rules on political balance and a political group wishes to change its representation on that committee, notice in writing to that effect shall be given to the Head of Democratic Services prior to the start of the meeting at which the change of representation is to become effective.

## **16. RIGHT OF MEMBERS TO ATTEND AND SPEAK**

- 16.1 A member of the Council may attend meetings of committees of which he/she is not a member and may speak on any matter.
- 16.2 A member of the Council attending a meeting of a committee of which he/she is not a member shall not be excluded from the meeting when members of the public and press are excluded pursuant to Section 100A of the Local Government Act 1972.
- 16.3 The right to attend a meeting shall not apply to:
- (i) A committee dealing with the appointment of an officer, or any grading, disciplinary or grievance matter;
  - (ii) The Licensing Committee when dealing with hearings in respect of individual applications for licences or consents;
  - (iii) A Hearings Panel when dealing with the hearing of a complaint referred to it including any procedural or other matter associated with that complaint;
  - (iv) Employment Appeals Panels.

## **17. CO-OPTION**

- 17.1 An Area Committee may co-opt in a non-voting capacity any person who is resident in the Borough and who is not disqualified from membership of a local authority and who is:-
- (i) A member or officer of a town or parish council or parish meeting within the area of the Area Committee; or
  - (ii) A member of a tenant customer panel in the area of the Area Committee; or
  - (iii) A member of a chamber of trade or similar organisation representing business and commercial interests in the area of the Area Committee; or
  - (iv) A member of any other organisation recognised by the Council for this purpose.
- 17.2 An Area Committee may appoint as a substitute for a co-optee any person who fulfils the criteria above.

17.3 An Area Committee may at any time revoke a co-option or substitute co-option.

**18. DISTURBANCE BY PUBLIC**

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

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

**19. RESTRICTION ON APPOINTMENT OF SUB-COMMITTEES**

Other than the Executive a Committee may not appoint a sub-committee without the prior approval of the Council.

## **ACCESS TO INFORMATION PROCEDURE RULES**

1. SCOPE
2. ADDITIONAL RIGHTS TO INFORMATION
3. RIGHTS TO ATTEND MEETINGS
4. NOTICES OF MEETING
5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING
6. SUPPLY OF COPIES
7. ACCESS TO MINUTES ETC. AFTER THE MEETING
8. BACKGROUND PAPERS
9. SUMMARY OF PUBLIC'S RIGHTS
10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS
11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS
12. RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

Rules 1-10 and 12 apply to all meetings of the Council and committees (together called meetings).

Rule 11 applies to meetings of the Hearings Panel convened to consider alleged breaches of the Council's Code of Conduct for Members.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or in the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4. NOTICES OF MEETING**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting on the Council's website at [www.pendle.gov.uk](http://www.pendle.gov.uk).

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk) at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda, together with any accompanying reports.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (i) any agenda and reports which are open to public inspection; and
- (ii) any further statements or particulars necessary to indicate the nature of the items on the agenda;

to any person on payment of a charge for postage and any other costs.

### **7. ACCESS TO INFORMATION AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (i) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (ii) the agenda for the meeting; and



- (iii) reports relating to items when the meeting was open to the public.

Minutes are kept in perpetuity.

## **8. BACKGROUND PAPERS**

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

The Head of Democratic Services will arrange for the setting out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (i) disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) which have been relied on to a material extent in preparing the report

but not including published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **8.2 Public inspection of background papers**

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

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and available to the public at Nelson Town Hall.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Extent of Exclusion**

The public may only be excluded under Rule 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

### **10.2 Confidential information – requirement to exclude public**

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

### **10.3 Exempt information – discretion to exclude public**

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting

will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### 10.4 Meaning of confidential information

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

#### 10.5 Meaning of exempt information

Exempt information means information falling within the categories set out below.

[NOTE: Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

	Category	Qualification	Interpretation
1.	Information relating to any individual.	The exemption applies only if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in not doing so.	
2.	Information which is likely to reveal the identity of an individual.	The Public Interest Test Qualification applies as in 1 above.	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	The Public Interest Test Qualification applies as in 1 above. 'Financial or business affairs' includes contemplated as well as past or current activities. Information falling within this paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993	Any reference to 'the authority' is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.  'person' includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm.
4.	Information relating to any consultations or negotiations, or contemplated consultations or	The Public Interest Test Qualification applies as in 1 above.	Any reference to 'the authority' is a reference to the Council or, as the case may be, the

	<p>negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>		<p>committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>'labour relations matter' means –</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act);</p> <p>or</p> <p>(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to officeholders under the authority as they apply in relation to employees of the authority.</p> <p>'employee' means a person employed under a contract of service.</p> <p>'office-holder' in relation to the authority means the holder of any paid office, appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
5.	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>The Public Interest Test Qualification applies as in 1 above.</p>	
6.	<p>Information which reveals that the authority proposes – (a) to give under any enactment a notice under</p>	<p>The Public Interest Test Qualification applies as in 1 above.</p>	<p>Any reference to 'the authority' is a reference to the Council or, as the case may be, the committee or sub-committee in</p>

	or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.		relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies as in 1 above	
<b>Exempt information relating to a Hearings Panel established to consider an alleged breach of the Code of Conduct for Members ONLY</b>			
7.1	Information which is the subject to any obligation of confidentiality.	The Public Interest Test Qualification applies as in 1 above.	
7.2	Information which relates in any way to matters concerning national security.	The Public Interest Test Qualification applies as in 1 above.	
7.3	The deliberations of a Hearings Panel established under the provisions of Part 3 of the Local Government Act 2000 in reaching a finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	The Public Interest Test Qualification applies as in 1 above.	

NOTE: The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined – The Authority must release the information unless “*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*”.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations –

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

- (a) If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.
- (b) The relevant body is requested in the agenda to confirm the action set out in 11(a) by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- (c) If the matter is considered in public, any related report will also become available to the public.

## **12. RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS**

### **12.1 Material relating to previous business**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of committees unless it contains information falling within the categories of exempt and confidential information.

### **12.2 Nature of rights**

These rights of a Member are additional to any other right he or she may have.

## **13. APPLICATION OF RULES FOR THE EXECUTIVE**

Rules 14 to 21 apply to the Executive and any committees it may appoint when meeting to take key decisions. A key decision is as defined in Article 14.03 of this Constitution.

## **14. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 16 (general exception) and Rule 17 (special urgency) a key decision may not be taken unless:

- (a) A notice (called here a forward plan) has been published in connection with the matter in question.
- (b) At least three clear days have elapsed since the publication of the forward plan; and
- (c) Where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **15. THE FORWARD PLAN**

### **15.1 Period of Forward Plan**

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

## 15.2 Contents of the Forward Plan

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

- (a) The matter in respect of which a decision is to be made.
- (b) The date on which, or the period within which, the decision will be taken.
- (c) The identity of the principal groups to be consulted before the decision is taken.
- (d) The means by which any such consultation is proposed to be undertaken.
- (e) The steps any person might take who wishes to make representations about the matter in respect of which the decision is to be made and the date by which those steps must be taken; and
- (f) A list of the documents submitted for consideration in relation to the matter.

## 15.3 Publicity in connection with the Forward Plan

The Forward Plan must be published at least 14 days before the start of the period covered. The Head of Democratic Services will publish once a year a notice in at least one newspaper circulating in the area stating:

- (a) That key decisions are to be taken on behalf of the Council.
- (b) That a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis.
- (c) That the Plan will contain details of the key decisions to be made for the four month period following its publication.
- (d) That each Plan will be available for inspection on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk)
- (e) That each Plan will contain a list of the documents submitted for consideration in relation to the key decisions on the Plan.
- (f) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed in the Forward Plan is available.
- (g) That other documents may be submitted for consideration.
- (h) The procedure for requesting details of documents (if any) as they become available; and
- (i) The dates on each month in the following year on which each Forward Plan will be published and available on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk)

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## 16. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 17 (special urgency) the decision may still be taken if:

- (a) The decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates.
- (b) The Head of Legal Services has informed the Chair of the Overview and Scrutiny Committee, in writing, of the matter on which the decision is to be made.
- (c) The Head of Democratic Services has made copies of that notice available for the public to view on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk)

(d) At least five clear working days have elapsed since the Head of Democratic Services complied with (a) and (c) above.

Where such a decision is taken, it must be taken in public.

## **17. SPECIAL URGENCY**

If, by virtue of the date by which a decision must be taken, Rule 16 (general exception) cannot be followed, then the decision can only be taken if the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred has been obtained.

## **18. REPORT TO COUNCIL**

### **18.1 When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) Included in the Forward Plan; or
- (b) The subject of the general exception procedure (Rule 16); or
- (c) The subject of agreement under Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies.

### **18.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decisions and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

### **18.3 Quarterly reports on Special Urgency Decisions**

In any event the Executive will submit quarterly reports to the Council on any executive decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **19. RECORD OF DECISIONS**

After any meeting of the Executive or of any committee it may appoint, the Head of Democratic Services will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

Subject to Rule 20.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which

contains material relating to any business transacted at a meeting of the Executive or its committees.

## **20.2 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) Any document that is in draft form; or
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **21.1 Material Relating to Previous Business**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

### **21.2 Material Relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

### **21.3 Nature of Rights**

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



## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The Framework for Executive Decisions**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place it will be the responsibility of the Executive to implement it.

### **2. Process for Developing the Framework**

- (a) The Executive will publicise by inclusion in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework.
- (b) After consulting stakeholders in a manner appropriate to the matter under consideration and in accordance with details set out in the Forward Plan, the Executive will draw up initial proposals in relation to the plan, strategy or budget. Wherever possible the Executive shall seek the comments of an Overview and Scrutiny Committee.
- (c) The Overview and Scrutiny Committee will consider what representations it wishes to make to the Executive's initial proposals within the timescale set by the Executive.
- (d) The Executive will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committee. The report to Council will show the Executive's response to those comments.
- (e) The Council will consider the proposals of the Executive and may adopt them, amend them refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (f) The Council's decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment) will become effective on the expiry of five working days, unless the Leader formally objects in that period.
- (g) If the Leader objects to the decision of the Council, he/she shall give written notice to the Head of Democratic Services to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received the Head of Democratic Services shall arrange for the Council to reconsider its decision at its next ordinary meeting and the decision shall not be effective pending that meeting.
- (h) At that meeting, the decision of the council shall be reconsidered in the light of the objection, which shall be available in writing for members of the Council.
- (i) The Council shall, at that meeting, make its final decision on the matter on the basis of a simple majority which shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council shall also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 (virement) and 6 (in year changes to policy framework) of these Rules. Any other changes to the budget and policy framework are reserved to the Council.

### **3. Decisions outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 5 (virement) the Executive may only take decisions which are in line with the budget and policy framework. If it wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, except as provided in paragraph 4 below (urgent decisions outside the budget and policy framework).

- (b) If the Executive wishes to make such a decision, it shall take advice from the Monitoring Officer and/or the Director of Resources as to whether the decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the matter must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 below (urgent decisions outside the budget and policy framework) shall apply.

#### **4. Urgent Decisions outside the Budget or Policy Framework**

- (a) The Executive may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken if the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair the consent of the Mayor will be sufficient.

- (b) Following the decision, the Executive will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5. Virement**

- (a) The Council shall have the budget heads as determined by the Director of Resources.
- (b) Steps taken by the Executive to implement Council policy shall not exceed those budgets allocated to each budget head. However, it shall be entitled to vire across budget heads with a limit per individual virement of £100,000. Beyond that limit, approval to any virement shall require the approval of the Full Council.

#### **6. In-year changes to Policy Framework**

The responsibility of agreeing the budget and policy framework lies with the Council and decisions by the Executive must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by the Executive except those changes:

- (a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
- (b) Are necessary to ensure compliance with the law, ministerial direction or government guidance.

#### **7. Call In of Decisions outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or the Director of Resources.
- (b) If the Monitoring Officer and/or Director of Resources is of the view that it is outside the budget or policy framework he/she shall report to the Executive who must decide what action to take in respect of the report including reporting on the matter to the Council.
- (c) The Council will receive the Executive's report on the matter and the advice of the Monitoring Officer and/or the Director of Resources. The Council may either:

(i) Endorse the decision as falling within the existing budget and policy framework.

OR

(ii) Amend the Council's financial regulations or policy concerned to encompass the decision and agree to the decision with immediate effect.

OR

(iii) Require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Director of Resources.

## **EXECUTIVE PROCEDURE RULES**

### **1. OPERATION OF THE EXECUTIVE**

#### **1.1 Discharge of Executive Functions**

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council. Executive functions may be discharged by:

- (i) The Executive as a whole.
- (ii) A committee of the Executive.
- (iii) An officer.
- (iv) An Area Committee.
- (v) Joint Arrangements; or
- (vi) Another Local Authority.

#### **1.2 The Council's Scheme of Delegation and Executive Functions**

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required for the discharge of all executive functions and will be set out in Part 3 of the Constitution.

#### **1.3 Conflicts of Interest**

These shall be dealt with as provided for in the Member Code of Conduct in Part 5 of this Constitution.

#### **1.4 Taking Executive Decisions**

- (a) Executive decisions will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to decisions taken by them shall be the same as those applying to those taken by the Executive.

### **2. CONDUCT OF EXECUTIVE MEETINGS**

#### **2.1 Executive Meetings**

The Executive will meet monthly, normally on the third Thursday of the month at Nelson Town Hall.

All meetings of the Executive will be held in public except when information of a confidential or exempt nature is to be considered.

#### **2.2 Quorum**

The quorum for a meeting of the Executive, or a committee of it, shall be (to be added) and for a committee of the Executive, one half of the voting membership subject to a minimum of 3.

#### **2.3 Chairing the Meeting**

If the Leader is present he/she will chair the meeting. In his/her absence, then a person appointed to do so by those present shall chair it. The conduct of meetings, including the manner of debates

and the acceptance or otherwise of motions and amendments, shall be at the discretion of the man.

## **2.4 Business**

At each meeting of the Executive the following business will be conducted:

- (i) Consideration of the minutes of the last meeting.
- (ii) Declarations of interest, if any.
- (iii) For a maximum of 15 minutes, questions from members of the public on matters not appearing on the agenda.
- (iv) Matters referred to the Executive by the Overview and Scrutiny Committee or by the Full Council for reconsideration in accordance with the provisions contained in the Overview and scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.
- (v) Consideration of reports referred by the Overview and Scrutiny Committee.
- (vi) Other matters set out in the agenda for the meeting, which shall indicate which are key decisions; and
- (vii) A list of forthcoming business for the purpose of updating the Forward Plan.

## **2.5 Consultation**

All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.6 Placing Items on the Agenda**

- (a) Any member of the Executive may require that an item is placed on the agenda for the next available meeting of the Executive for consideration.
- (b) Any member of the Council may ask that an item be put on the agenda of an Executive meeting for consideration. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The Councillor will be invited to attend the meeting.
- (c) The Chief Executive and through him/her the Directors and Heads of Service Areas, may include an item for consideration on the agenda for an Executive meeting.
- (d) The Chief Executive, the Monitoring Officer, the Director of Resources and the Director of Place may require the calling of a meeting to consider a report in pursuance of their statutory duties.

## **2.7 Councillors' Rights of Attendance**

All members of the council may attend meetings of the Executive, including those parts where the public and press are excluded, and may speak on any item.

## **2.8 Rights of Members of the Public**

- (a) A member of the public may ask a question on a matter not appearing on the agenda during public question time.
- (b) A member of the public may, on giving notice prior to the commencement of the meeting, address the Executive on any matter on the agenda, except where the public and press have

been excluded from the meeting during consideration of the matter. He/she shall normally be heard immediately prior to the consideration of the matter. His/her speech shall be limited to five minutes and this may be further curtailed by the man if the number of persons wishing to speak is so large as to impede the conduct of the business. He/she shall not speak again other than to answer any questions from members of the Executive.

- (c) A member of the public may present a petition on any matter relevant to the Borough at a meeting of the Executive. He/she may speak for up to 5 minutes in support of it. Unless receipt of the petition has been included on the agenda or it relates to an item on the agenda, it shall stand referred without discussion to the meeting.

## **2.9 Duration of Meetings**

Unless the majority of members present for the meeting resolve to continue with any or all of the remaining business, any meeting that has lasted a duration of 3 hours will adjourn upon conclusion of the item then under consideration. Remaining business will then be considered at the next meeting.

## **2.10 Voting**

- (a) Any matter will be decided by a simple majority of those members present and voting.
- (b) Voting shall be by a show of hands.
- (c) The Chair will have a second or casting vote.
- (d) Where any member requests it immediately after a 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.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Number and arrangements for overview and scrutiny committees**

- (a) The Council will appoint one Overview and Scrutiny Committee as set out in Article 8 of Part 2 of this Constitution.
- (b) The terms of reference of the Overview and Scrutiny Committee are set out in Part 3 of this Constitution.

### **2. Membership of Overview and Scrutiny Committees**

All councillors except members of the Executive may be members of the overview and scrutiny committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

### **3. Co-optees**

The overview and scrutiny committees shall be entitled to recommend to Council the appointment of non-voting co-optees.

### **4. Meetings of the Overview and Scrutiny Committees**

The Council shall determine at the Annual Meeting the timetable of meetings of the Overview and Scrutiny Committee and there shall be at least 4 ordinary meetings of the Overview and

Scrutiny Committee in each year. In addition special meetings may be called as and when appropriate. An overview and scrutiny committee meeting may be called by the man of the relevant committee/task and finish group, by any two members of the Committee or by the Chief Executive if he/she considers it necessary or appropriate.

## **5. Quorum**

The quorum for the Overview and Scrutiny Committee shall be one third of the voting membership.

## **6. Leaders of Overview and Scrutiny Committees**

The Chair of the Overview and Scrutiny Committee will be appointed by the Council. The leader of a task and finish group shall be appointed by the councillors on the group from their number.

## **7. Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so shall take into account recommendations from the Council and Executive.

## **8. Agenda items**

- (a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the (named officer) that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the (named officer) will ensure that it is included on the next available agenda.
- (b) The Overview and Scrutiny Committee shall respond, as soon as its work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where it does so, it shall report its findings and any recommendation back to the Council and/or Executive. The Council and/or the Executive shall consider the report within two months of receiving it.

## **9. Policy Review and Development**

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (within Part 4 of the Constitution).
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the Overview and Scrutiny Committee may make proposals to the Executive or the Council in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold inquiries and investigate the available options for future direction in policy development. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address them on any matter under consideration and may pay reasonable expenses for doing so.

## **10. Overview and Scrutiny Reports**

- (a) Once it has finalised recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Executive (if the proposals are consistent with the existing budget and policy framework) and/or to Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

## **11. Making sure that overview and scrutiny reports are considered by the Executive**

- (a) Overview and scrutiny reports referred to the Executive shall be included on the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- (b) The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation and will be able to respond in the course of the Executive's consultation process in relation to any key decision.

## **12. Rights of Overview and Scrutiny Committee members to documents**

- (a) In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **13. Members and officers giving account**

- (a) An overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Chief Executive, a Director, Heads of Service and/or other senior staff to attend before it. Other employees may be required to attend with the approval of the Chief Executive. Persons attending may be asked to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance

and it is the duty of those persons to attend if so required.

- (b) Where any Member or officer is required to attend under this provision, the Chair will inform the Head of Democratic Services who shall inform the Member or officer in writing giving at least 10 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and



whether any papers are required to be produced. Where the account to be given will require the production of a briefing note, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then an alternative date for attendance will be given.

#### **14. Attendance by others**

Other people, for example residents, stakeholders and members and officers in other parts of the public sector, may be invited to attend to discuss issues of local concern, give their views and/or answer questions.

#### **15. Call-in of Executive Decisions**

- (a) When a decision is made by the Executive, the decision shall be published by electronic means within 2 working days of being made and published on the Council's website. All members of the Council will be notified of all decisions within the same timescale by the Head of Democratic Services.
- (b) That notification will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it is called in under these rules.
- (c) Within 3 days after notification any three members of the Council who are not on the Executive (representing at least two of the political groups) may sign and deliver to the Chief Executive a call-in notice stating why it is felt the decision should be reconsidered.
- (d) The Chief Executive will refer the call-in notice to the Chair and group spokespersons of the Overview and Scrutiny Committee for determination as to whether the Executive should be asked to reconsider. If necessary a meeting shall be convened with the callers in to explore the merits of the issue.
- (e) If the majority view is that it be referred back to the Executive for reconsideration, the decision will be referred to the next meeting of the Executive. All action on the matter will remain suspended.
- (f) If the Executive decides not to change its decision this will be reported to the next meeting of the Overview and Scrutiny Committee who may refer the matter to the full Council.
- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay, there are the following limitations on its use:
  - (i) if the decision of the Executive was to make a recommendation to the full Council it may not be called in;
  - (ii) once a decision has been called in it may not be called in again.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision shall state whether in the opinion of the Executive it is an urgent one and therefore not subject to call-in. The Chief Executive must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions

taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## **16. Councillor Call for Action**

Councils must make arrangements for the Councillor Call for Action (CCfA) in order to comply with the requirements of the Local Government and Public Involvement in Health Act 2007.

The CCfA is a mechanism whereby individual ward Councillors can bring forward issues of local concern relating to ‘a local government matter’ as defined in Section 119 of the Act or “a local crime and disorder matter” as defined in Section 126 of the Act, for consideration by overview and scrutiny. It should be used only where all other methods of resolution have been exhausted.

No CCfAs will be considered during the election period.

### **Guidance for Members on CCfA**

- (a) To refer a CCfA to an overview and scrutiny committee, details of the issue must be submitted to (named officer) on the prescribed form. Full details of what has already been done to try and resolve the issue must be provided and the Councillor should have first referred to the Council’s guidance and worked through the checklist.
- (b) The (named officer) will consult with the Chair and Group Spokespersons of the Overview and Scrutiny Committee to decide whether the CCfA is valid.
- (c) Where other mechanisms have not been pursued which could resolve the issue the (officer) will advise the Councillor accordingly. Where it is agreed that the CCfA is valid, the matter will be placed on the agenda of the next meeting of the Overview and Scrutiny Committee.
- (d) The Councillor raising the call for action will be asked to address the Overview and Scrutiny Committee, which will agree whether or not to pursue the issue through the overview and scrutiny process. Where the Committee declines to pursue the matter, reasons must be given for the decision.
- (e) Where the Committee agrees to pursue the matter, an overview and scrutiny committee will investigate the issue, gathering evidence and interviewing witnesses as necessary.
- (f) The results of the review will be fed back to the Councillor and recommendations approved by the Overview and Scrutiny Committee will be submitted to the Executive, Council or partner organisation as appropriate.

When making a CCfA request, Councillors should take into account that the following matters are excluded by law from the Councillor Call for Action –

- (i) Any matter relating to a planning or licensing decision
- (ii) Any matter where there is a right of recourse to review or right of appeal
- (iii) Any matter which is vexatious and persistent; discriminatory; or is not reasonable for discussion at an overview and scrutiny committee

## **17. The Party Whip**

When considering any scrutiny matter in respect of which he or she is subject to the party whip, the Member must declare the existence of the whip, and the nature of it, before the commencement of the Committee's deliberation on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

The phrase 'the party whip' means

*"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."*

## **18. Procedure at Overview and Scrutiny Committee meetings**

- (a) Agendas for scrutiny meetings shall include the following business:
- (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of an Executive decision;
  - (iv) responses of the Executive or the full Council to overview and scrutiny reports;
  - (v) other business set out on the agenda for the meeting.
- (b) Where a scrutiny meeting is conducting an investigation (e.g. with a view to policy development), and people have been asked to attend to give evidence, the following principles shall be followed:
- (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, a report will be prepared and approved by the Overview and Scrutiny Committee prior to submission to the Executive and/or Council as appropriate and shall be made public.

## **19. Designated Crime and Disorder Committee**

The Overview and Scrutiny Committee shall be the Council's designated Crime and Disorder Committee: (Police and Justice Act 2006)

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) to make reports or recommendations to the Executive and/or full Council with respect to the discharge of those functions