

CORPORATE GOVERNANCE GROUP AGENDA

Tuesday, 26th January 2021 at 12:30pm

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

Members of the Corporate Governance Group are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor P Euesden

Councillor D Hume

Councillor H Johnson (Vice Chairman)

Councillor D Mann

Councillor Miss V Santomauro

Councillor R van Dulken (Chairman)

Councillor D Wallace

Councillor T Walsh

Councillor Mrs L Walters

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 11am on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBER – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking:

In response to the Coronavirus the Council has implemented procedures for Public Question Time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to governance@braintree.gov.uk. In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Documents: Agendas, Reports, Minutes and Public Question Time questions and statements can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy. https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

PUBLIC SESSION

Page

- 1 Apologies for Absence**
- 2 Declarations of Interest**
To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**
The last meeting of the Corporate Governance Group was held on 20th January 2021; the minutes for that meeting will be presented to the next meeting scheduled on 24th February 2021.
- 4 Public Question Time**
(See paragraph above)
- 5 Constitution Review - Chapter 2 - Part 1** **5 - 49**
- 6 Governance Review Part 1** **50 - 71**

| | | |
|---|--|-------------------------|
| Constitution Review: Chapter 2: Part 1 | | Agenda No: 5 |
| Portfolio | Finance and Performance | |
| Corporate Outcome: | <p>A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure A prosperous district that attracts business growth and provides high quality employment opportunities Residents live well in healthy and resilient communities where residents feel supported A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers</p> | |
| Report presented by: | Kim Cole, Head of Governance and Monitoring Officer | |
| Report prepared by: | Kim Cole, Head of Governance and Monitoring Officer | |
| Appendix and Background Papers: | | Public Report |
| <ol style="list-style-type: none"> Appendix 1: Council Procedure Rules Appendix 2: Cabinet Procedure Rules Appendix 3: Access to Information Procedure Rules Appendix 4: Officer Employment Procedure Rules | | Key Decision: No |
| Executive Summary: | | |
| <p>The Council is required to review its Constitution on an Annual basis. This would normally be reflective of changes made during the year and seek to ensure that it remains fit for purpose for the forthcoming 12 month period.</p> <p>However, the Constitution as a complete document has not been reviewed and substantially updated for a number of years. As the Council changes the way it works through virtual platforms and looks to strengthen its decision making, now is an appropriate time for a full review to be carried out.</p> | | |
| Recommended Decision: | | |
| <p>The Corporate Governance Group are asked:</p> <ol style="list-style-type: none"> To note the proposed changes to; | | |

- (a) The Council Procedure Rules;
- (b) The Cabinet Procedure Rules;
- (c) The Access to Information Procedure Rules; and
- (d) The Officer Employment Procedure Rules.

2. To agree that comments and suggested amendments will be considered by the Monitoring Officer and incorporated where necessary ahead of approval by full Council on 29th March 2021.

Purpose of Decision:

To agree to the proposed changes of the Constitution, in order to ensure more efficient governance arrangements and bring certainty to its decision making and comply with the Council's Statutory requirements.

Any Corporate implications in relation to the following should be explained in detail.

| | |
|---|--|
| Financial: | No matters arising out of this report. |
| Legal: | <p>The Council is required to have in place a Constitution which sets out the Council's Procedure Rules, its Code of Conduct and any such information as the Council considers appropriate.</p> <p>The proposals set out in this report ensure that the Council complies with its statutory obligation and ensures that the Constitution remains a useable document for its Members, Officers and members of the Public.</p> |
| Safeguarding: | No matters arising out of this report. |
| Equalities/Diversity: | Equality Impact Assessment not necessary at this stage of considerations. |
| Customer Impact: | No matters arising out of this report. |
| Environment and Climate Change: | No matters arising out of this report. |
| Consultation/Community Engagement: | No matters arising out of this report. |
| Risks: | No matters arising out of this report. |
| Officer Contact: | Kim Cole |
| Designation: | Head of Governance and Monitoring Officer |
| Ext. No: | 2629 |
| E-mail: | Kim.cole@braintree.gov.uk |

1. Introduction

- 1.1 This is a continuation of the Constitution and Governance review, and follows on from the review of Chapter 1: The Articles, and sees the commencement of the review of Chapter 2: The Procedure Rules.
- 1.2 Chapter 2, contains eight procedure rules in total and in order to bring these forward for consideration these have been separated into 2 parts. The first contains the following:
 - (a) Council Procedure Rules (Appendix 1)
 - (b) Cabinet Procedure Rules (Appendix 2)
 - (c) Access to Information Procedure Rules (Appendix 3); and
 - (d) Officer Employment Procedure Rules (Appendix 4)
- 1.3 Whilst Chapter 2, has for the purposes of the review been separated into two parts, this is solely to ensure that they are presented in manageable parts, and they will remain as a complete suite of rules within the final Chapter 2. The remaining procedure rules will be brought forward for consideration at the next meeting.

2. Council Procedure Rules

- 2.1 The Council Procedure Rules (CPR) govern how Council (Cabinet and Committee) meetings will be managed and the principles through which debates will take place.
- 2.2 As seen with the review of Chapter One, the standardisation process in terms of language and format has continued into Chapter two, and the CPR have been reordered and expanded where necessary.
- 2.3 As part of the review, there has been additional processes included, and for ease these are highlighted in yellow in the attached CPR contained in Appendix 1 and are set out in this report.
- 2.4 Currently the Constitution refers to the three different types of meetings Council can hold, its annual meeting, the ordinary meetings and the extraordinary meetings. The revision separates these out into their own headings and expands on what business can be transacted at those meetings, and how each of those meetings are called.
- 2.5 With regards to the Order of Business under Ordinary Meetings, the current Constitution, and therefore the published Agenda, set out that where there is an urgent item being brought to the meeting, this will be heard last, or if the Chairman moves, the agenda can be reordered. This isn't dissimilar to other Councils. However, in circumstances where an urgent item is brought to the meeting, by its very nature, it would seem sensible to ensure that the item is addressed by the meeting at the earliest opportunity. Therefore the order of business has been reordered to allow for any Urgent Items to be considered immediately after the meeting formalities.

- 2.6 During the review of Chapter One, reference to the Chairman's ruling was removed, and as indicated at the last meeting, this has been included within the CPR. The reason for the move was to ensure that the provisions sits where it applies so as to avoid the reader having to search for it or having to link it to the CPR.
- 2.7 Currently the time limit for a meeting can be extended, so as to enable the remainder of the business to be transacted. In order to provide flexibility, there has been the inclusion of a provision to extend the meeting for a specific period of time, rather than open ended.
- 2.8 As part of the Governance review, and as set out in the report also before you today, the new template report provides for a confidential appendix. This document, if agreed, has therefore been reflected in the list of documents that would form part of the papers before the Council.
- 2.9 Currently there are two deadlines which expire either the day before the meeting or on the day of the meeting, namely Public Question Time registration and Motion Amendments respectively. As the Council continue to encourage members of the public to engage with the Council and the use of Motions and their Amendments are being more routinely used, these deadlines are becoming a resource issue. Managing the turnaround time for these items and ensuring that Members receive the questions, and the relevant Amendment reports in time for the meeting requires a significant amount of time from the Governance Team, particularly where discussions are undertaken in order to see if the Amendment can be agreed by the Proposer and Seconder to the original Motion. The table below shows the current lead in time for meetings:

Current lead in time for Meetings

| | | |
|-------------|--------------|--|
| 1 | Mon | 5:30pm - Notice of Motions Deadline - Cllr Statement deadline - Chairman Statement deadline |
| 2 | Tues | Latest date for the Circulation of Motions to all Cllrs |
| 3 | Weds | |
| 4 | Thurs | |
| 5 | Fri | Publication of the Agenda |
| 6 | Mon | |
| 7 | Tues | Draft Order Paper to Chairman |
| 8 | Weds | |
| 9 | Thurs | |
| 10 | Fri | 12:00 noon - Public Question Time Deadline |
| DoM* | Mon | 9:00am - Amendment to Motions Deadline 12:00 noon – Final Order paper to Chairman |

*DoM – Day of Meeting

- 2.10 Accordingly the deadlines during this period have been reviewed and it was felt that in order to better manage meeting preparation and to enable Members to have sufficient opportunity to prepare ahead of the meeting these should be amendment as follows:

Proposed lead in time for Meetings

| | | |
|-------------|--------------|--|
| 1 | Mon | 5:30pm - Notice of Motions Deadline - Cllr Statement deadline - Chairman Statement deadline |
| 2 | Tues | Latest date for the Circulation of Motions to all Cllrs |
| 3 | Weds | |
| 4 | Thurs | |
| 5 | Fri | Publication of the Agenda |
| 6 | Mon | |
| 7 | Tues | Draft Order Paper to Chairman |
| 8 | Weds | 12:00 noon - Amendment to Motions Deadline |
| 9 | Thurs | 12:00 noon - Public Question Time Deadline |
| 10 | Fri | 5:30pm – Final Order paper to the Chairman |
| DoM* | Mon | |

*DoM – Day of Meeting

- 2.11 It is felt that bringing these dates forward will not have a detrimental impact on a member of the public's ability to submit a question, nor will it significantly impact on Members ability to bring forward an Amendment to a Motion.
- 2.12 Under Public Question Time, there is the inclusion of a provision that the person bringing the question must be present at the meeting but also includes the ability for the Chairman to exercise discretion to allow the statement to be read out by an Officer in their absence, in the same way as is currently exercised during virtual meetings.
- 2.13 Further, under this provision there is also the inclusion that other than the Leader, Cabinet Member or Chairman of the relevant Committee providing the response to the question by the member of the public, no other Member may be permitted to speak. This ensures that there is no provision through which this section of the meeting can progress as a debate.
- 2.14 The agendas for full Council provide for a statement to be read out by the Leader, to update the Council on current issues of important that cannot be covered elsewhere in the agenda. However, there are currently no provision for this within the Constitution. Accordingly for clarity this has been included and sets out the timescales applicable for such a statement, under paragraph 12.12.
- 2.15 During the course of a Council meeting, where written responses are promised, the Constitution currently does not provide a deadline by which those written responses will be provided. If a Member was to ask a question of a Cabinet Member outside formal meeting environment, the deadline for a written response is 10 working days. Accordingly it would seem sensible to ensure that all written responses are dealt with in the same manner and bring a consistent approach, and as such the 10 working day timescale has been added under paragraph 12.13(iii).

- 2.16 The terminology for deadlines seems to also cause confusion, and the Governance Team are invariably asked to interpret them for Members. The current phrasing 5.30pm on the 9th Clear Working Days is a merging of a number of provisions. In the calculation of clear working days, you discount the day of the meeting and the day of the action, and therefore 9 clear working days means you have 9 days between the action and the meeting. The confusion is the introduction of a timescale to that provision. As in order to give clear working days by 5:30pm you are actually required to give notice by 5:30pm on the 10th day before the meeting. In order to provide some clarification, it is proposed that the timescale provision simply refer to clear working days. With Working days defined as between the hours of 9am and 5pm.
- 2.17 The Petition provisions have been removed from the Council Procedure Rules and will now be captured as a standalone Petition Policy, and this is subject to consideration under the Governance Report, also before this meeting. This ensures that the policy can capture the full range of provisions without distorting the Council Procedure Rule. This will ensure that Members of the Public are able to find the policy quickly without having to revert to the Constitution, and therefore making it more user friendly.
- 2.18 Under the motions provision there is now the inclusion of a requirement that any motion relating to an executive function shall be deferred to the Cabinet for consideration. This ensures that there is a clear separation of powers, functions and responsibilities and makes sure that consideration is undertaken by the right decision maker.
- 2.19 Currently the Constitution provides that a maximum of 4 Motions from any one Political Group can be brought to a meeting. As the Council have 4 Groups, this means that there could be 16 Motions brought to any one meeting. Whilst the reality is that this number would not be presented, it would be an unmanageable number if they were. The Constitution needs to be realistic in what can be achieved if the maximum occurs and therefore it is proposed that this is amended.
- 2.20 In considering the amendment to the number of Motions, it is recommended that the number of Motions are restricted to 6 Motions in total, and that these are proportioned in line with the “widdecombe” rules. Working on the basis that the maximum limit is six Motions, this would mean that the Conservative Group – 3, Green & Independent Group – 2 and Labour Group & Halstead Residents Association – 1. However there are alternative options available including the six Motions being allocated on a first come first serve basis.
- 2.21 The Constitution provides a restriction on any Motion being brought that would rescind a resolution passed within the preceding 6 months. However, one exemption to this provision provides that 20 Members may call for the Motion to be heard. It is understood that this number was originally set when the number in the Chamber was greater. However, currently it is difficult to continue with 20, as this neither presents a third or a half of the overall Members. In order to provide a basis for the number being calculated it is recommended that this is reduced to 16, which would be representative of a third of all Members.

- 2.22 In order to ensure that Motions are managed appropriately, it is proposed that there is the inclusion of the provision that if the Proposer or Secunder of the Motion or their nominee fail to attend the meeting at which the Motion is being discussed, the Motion will automatically fail.
- 2.23 Finally, the current Constitution does not set out any provisions around reports or their recommendations. Accordingly currently, as seen at full Council on 7th December 2020, it is possible to bring an Amendment to a report. This isn't a practice that should be encouraged and should be restricted to the most significant of circumstance. Members when reviewing a report should determine whether they agree with the recommendations or not, and vote accordingly. As a result in order to safeguard the integrity of reports, it is proposed to include an exclusion from Motions of amendments to reports and their recommendations. However, there will be an exclusion to this principals in respect of the Budget Reports, to which Amendments to the recommendations will be permitted under the Amendment to Motion provisions.
- 2.24 There is also the inclusion of a provision which sets out all the CPR that apply to the Committees and Working Groups. This ensures that those meetings follow the same provisions and rules and brings certainty to those members sitting on them.
- 2.25 Finally there is also the inclusion of the ability to provide a substitute to a Committee meeting in instances where the appointed Member is unable to attend. This would require sufficient notice to be given to the Governance Team, so that the attendance at those meetings could be managed. Substitute Members to the Planning and Licensing Committees will be required to undergo the necessary training before they are able to sit as a Member of those Committees.

3. Cabinet Procedure Rules

- 3.1 The amendments to the Cabinet Procedure Rules have really focused on identify any gaps outside of the CPR, which apply to meetings of Cabinet, and to bring clarification; these are as follows:
- (a) There is now a provision that allows for the Leader to call additional Cabinet meetings as and when required. This simply helps the reader to understand how additional meetings are managed;
 - (b) For the avoidance of doubt the quorum provisions are also set out under these rules, in order to assist the reader;
 - (c) Public Question Time has now been included as part of the order of business;
 - (d) The determination of the agenda will be in consultation with the Chief Executive, this currently reflects the working practice;
 - (e) If a Member asks for a question to be placed on the Agenda, that Member is permitted to attend the Cabinet Meeting and participate in the item. For the avoidance of doubt, this provision now confirms that the attending Member will not be able to vote on that item;

- (f) The inclusion of the provision that any Statutory Officer may add an item to the agenda in the exercising of their statutory role;
 - (g) Member Question Time has been removed from the CPR and included in the Cabinet Procedure Rules, as there is a separate provision for questions of the Cabinet and Leader under CPR; and
 - (h) There is the inclusion of the ability for the Leader to take Urgent decisions relating to Executive Functions and Non-Key Decisions.
- 3.2 The Cabinet Procedure Rules also set out the expectation for reports following a consultation. These provisions also apply to any consultation being reported back to Council, and therefore Members are asked to consider whether this should be moved and reflected in the Council Procedure Rules.
- 4. Access to Information Procedure Rules**
- 4.1 In the main the Access to Information Procedure Rules have been standardised and reordered in line with the review to date.
- 4.2 There is now the inclusion of the use of recording of meetings by those attending a meeting. This is a statutory provision, and therefore the inclusion simply sets out those provisions for certainty.
- 4.3 The redrafting now makes it clear what the distinction is between Confidential Information and Exempt Information and the provisions applicable to each.
- 4.4 Currently the Council publish its Decision Planner which sets out the intended decisions for Council and Cabinet over a four month period. The purpose of the Decision Planner is to enable members of the public to understand what decisions are on the horizon, and therefore the information provided should be meaningful. Whilst some decisions will be known this far in advance, the majority are not so clear, and therefore the information captured in the Decision Planner isn't always as detailed as it could be. Therefore it is proposed that this period is reduced to 3 months, so that when items are added they are done so with assurance that the information is meaningful and sufficient.
- 4.5 Similarly the contents of the Decision Planner as previously set out in the Constitution have been simplified, as well as the requirement for the Chief Executive to publish an annual statement affirming the Decision Planner provisions will be adhered with, has been removed. There is no statutory requirement for this, and as the Decision Planner requirements are contained within the Constitution so there is already the obligation to comply with them.
- 4.6 For the avoidance of doubt there is the inclusion of a provision which sets out those Members and Officers who are entitled to attend the meeting during the private session.
- 4.7 The provisions relating to individual Cabinet Members has been revised. The requirement for the Cabinet Member to hold the report at least 5 days before taking the decision has been removed. There is no statutory requirement for this time period, and this might cause delay in circumstances where decisions are required quickly.

- 4.8 However, there is the inclusion, for the avoidance of doubt, that any Cabinet Member Decision will be supported by a report on the issues, and that this report will be published.
- 4.9 To provide certainty around Officer decision making, where an Officer is undertaking a decision that has been delegated to them, there is now the inclusion of the parameters in which that decision can be taken, and that there must be a report on the issue, which must be published.

5. Officer Employment Procedure Rules

- 5.1 These provisions set out the process for the appointment and dismissal of the Statutory Officers, the Corporate Directors and Tier 3. These are governed by statutory provisions and therefore there has been very little amendments made to these outside of being in clarity on the terminology used.
- 5.2 However, one change is that in relation to the period of which a Statutory Officer can be suspended on full pay for whilst an investigation is carried out. Previously this was set at 2 months. However, it was felt that if the alleged misconduct was so significant that the council had taken the steps to suspend a Statutory Officer or a Corporate Director, it was unlikely that any such investigation would be concluded, and determined within the 2 month period. Accordingly the proposal is to extend this period to 6 months.

6. Conclusion

- 6.1 The changes proposed as part of the Chapter Two are the second part of the Governance and Constitution review. These changes are necessary to bring to Constitution up to date, and to remove ambiguity and duplication. Through standardising the language and bringing in key definitions, the Constitution will become a useable document which can be understood by everyone.

12. Council Procedure Rules

12.1 Annual Meeting of the Council

Timing of the Annual Meeting

The Annual Meeting of the Council shall be held:

- (i) in a year in which there are ordinary elections of Members to the Council, on a date not more than twenty one days after the day of the retirement of Council Members; or
- (ii) in any other year, the Annual Meeting may take place in March, April or May.

Order of Business

At the Annual Meeting of the Council, business will be reserved for:-

- (a) the election of the Chairman and Vice Chairman;
- (b) In the first Annual Meeting following an ordinary election of Councillors,
 - (i) the appointment the Leader for a 4 year term;
 - (ii) receive notification from the Leader on the appointment of the Deputy Leader;
 - (iii) receive notification of the memberships of political groups; and
 - (iv) receive notification of the names of Group Leaders and their Deputies.
- (c) Announcements from the Chairman, the Leader of the Council and/or the Chief Executive;
- (d) Receive notification from the Leader of:
 - (i) the appointment of Cabinet members and their Portfolios;
 - (ii) the appointment of Cabinet Committees, their membership and term of reference;
 - (iii) Delegation of Executive Functions to Cabinet Members and Officers;
- (e) The establishment of Council Committees and sub-committees, their membership and term of reference in accordance with the political balance rules and appointments to outside bodies subject to the provisions of [x.x] below;
- (f) Fix the allowances for Members for the municipal year, were a report is received from the Independent Remuneration Panel;
- (g) The setting of dates for the Ordinary Meetings of the Council for the remainder of the municipal year.

Restrictions and requirements on Business

No other business shall be transacted at the Annual Meeting unless, it is the opinion of the Chairman or the Chief Executive that there is business that the Council is required urgently to consider before the next available Ordinary Meeting.

The Monitoring Officer shall prepare and provide lists of appointments to be made to Council Committees and Sub-Committees to each Group Leader, taking into account the rules of proportionality where these apply. Each Group Leader will submit a list of Councillors of their political group together with nominations for all appointments (including the Chairman and Vice Chairman of Committees) to the Monitoring Officer at least **5** working days before the publication of the agenda for the Annual Meeting.

12.2 Ordinary Meeting of the Council

Timing of the Ordinary Meeting

In addition to the Annual Meeting of the Council and any meeting convened under paragraph [x.x], the Council's Ordinary Meetings shall be held each year on such dates, times and places as decided by Council at its Annual Meeting.

Order of Business

Ordinary Meetings will conduct the following business:

- (a) Elect a person to preside over the meeting if the Chairman and the Vice Chairman are not present;
- (b) Receive any apologies for absence;
- (c) Receive any declarations of interest from Councillors;
- (d) Approve the minutes of the last meeting;
- (e) To deal with questions from members of the public in accordance with paragraph [x.x]
- (f) Receive any announcements from the Chairman and/or the Leader and/or the Chief Executive;
- (g) Deal with any business remaining from the last meeting;
- (h) **Deal with any urgent items of business as agreed by the Chairman;**
- (i) To receive a report on any petition required to be debated in accordance with the Council's Petition Policy;
- (j) To consider any Motions on notice;
- (k) Deal with the Medium-Term Financial Strategy, the setting of the Council Budget and Council Tax resolution;
- (l) To consider a report on any matters reserved to the Council;
- (m) To receive and consider any other reports, if any, as specified in the Agenda;
- (n) Consider any recommendations from the Cabinet and Council Committees that require a Council resolution;
- (o) Receive reports from the Leader of the Council and the Cabinet Members incorporating oral questions as permitted by these Council Procedure Rules; and
- (p) To deal with any business in Private in accordance with the Access to Information Procedure Rules.

The order of business at any meeting of the Council, save for business items falling under (a), (b) and (c) above, may be varied and re-ordered by the Chairman.

12.3 Extraordinary Meetings of Council

Timing of the Extraordinary Meeting

An Extraordinary Meeting of the Council may be held in addition to the Ordinary Meetings of the Council, where a request to call an Extraordinary Meeting has been received by the Chief Executive from;

- (i) The Chairman;
- (ii) The Council by resolution;
- (iii) The Monitoring Officer in circumstances where a report under section 5 of the Local Government Act 1989 is to be presented; or
- (iv) Any 5 Councillors, only if having signed and presented a requisition to the Chairman, the Chairman has refused to call an Extraordinary Meeting or has failed to call an Extraordinary Meeting within 7 clear working days of receipt of the requisition.

Order of Business

Only the business for which the meeting has been called will be conducted at an Extraordinary Meeting of the Council.

12.4 Time and Place of Meetings

All meetings of the Council shall be held at Causeway House, Braintree and the time of the meetings shall be notified in the agenda for each meeting.

No alterations to the dates or times of Ordinary Meetings of the Council shall take place, unless the Chairman, after consultation with the Chief Executive and the Group Leaders, determines that it is necessary to either cancel a meeting or establish an alternative date or time. In such instances all Councillors will be notified by email, and notice of the changes will be on the Council's website.

The Council will give at least 5 clear working days' notice of the meeting to all Councillors and to the public by posting details of the meeting at the Council's main office and on its website.

Meetings of Committees of the Council shall be called by the Chief Executive at such times and places as shall be required to conduct the business of the Council.

12.5 Duration of Meetings

No meeting shall last for more than 3 hours.

If during the meeting, it appears to the Chairman that the meeting will exceed its

permitted time of 3 hours, they will invite the meeting to suspend this Procedure Rules in accordance with paragraph [x.x].

Where this Procedure Rule is suspended, the Council will deal with the remaining business in the order set out in the agenda or **continue to sit for a specific period of time**. Priority will be given to any item of business that the Council is legally obliged to consider at that meeting. Any business not concluded during the extended period will be considered at the next meeting of Council.

12.6 Chairing the Meeting

Meetings of the Council will be chaired by the Chairman of the Council, or in their absences the Vice Chairman of the Council. In the absence of both, the Council at the start of the meeting, will elect a Councillor to chair the meeting on that occasion.

The Councillor presiding over the meeting may exercise any power or duty of the Chairman and will control the order and conduct of business.

Where these Procedure Rules apply to Committees and Sub-committees, references to the Chairman will include the Chairman of the Committee and Sub-committee.

The ruling of the Chairman as to the construction or application of any of the Procedure Rules shall be final and shall not be challenged.

12.7 Quorum

The quorum of a meeting will be one third of the Councillors called for the meeting, or 3 Members, whichever is the greater present in the meeting.

If the Chairman considers the meeting to be inquorate the meeting shall stand deferred for 15 minutes. If there is still no quorum after 15 minutes, then meeting will be adjourned and the consideration of business will be held over to the next meeting.

12.8 Attendance

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

12.9 Documents

Reports

The agenda for each meeting will include written reports containing such information as is necessary to enable the Council to properly discharge its functions and responsibilities. All reports will be made available in accordance with the Access to Information Procedure Rules.

Background Papers

Each report will identify a list of background papers relating to the subject matter which in their opinion have been relied upon to a material extent in preparing the report and will be made available to Councillors upon request and in accordance with the Access to Information Procedure Rules.

Confidential Appendix

Where a report contains information that is considered Confidential Information or Exempt Information, in accordance with the Access to Information Procedure Rules, that information shall be placed in a Confidential Appendix, which will accompany the report for consideration. The Confidential Appendix will be exempt from publication in accordance with the Access to Information Procedure Rules.

12.10 Minutes

The minutes of each meeting shall be considered at the next Ordinary Meeting of the Council.

The Chairman shall put the question that the minutes of the meeting be approved as a correct record.

No discussion shall take place upon the minutes except upon their accuracy and any question of their accuracy will be considered and voted upon.

12.11 Public Question Time

At every meeting of the Council there shall be a period of up to 30 minutes to enable members of the public to ask questions on any matter in relation to which the Council has powers or duties or which affects the Braintree District.

A question may only be asked if the member of the public has registered to speak by giving notice to the Head of Governance **no later than 12 noon on the second working day 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.

At any one meeting no person may submit more than one question or statement, and no more than one question may be asked on behalf of an organisation or group.

The time limit for any question or statement is [3] minutes and any reply will be limited to [5] minutes.

Questions or statements shall normally be dealt with in the order in which notice was received. However, the Chairman may revise the order of questions if they considers it appropriate, and may group together similar questions.

A question may be rejected if it:

- (a) is not about a matter for which the Council has powers or duties;
- (b) is defamatory, frivolous, vexatious or offensive;
- (c) is substantially the same as a question put to a meeting in the previous 6 months;
- (d) will require the disclosure of Confidential or Exempt Information as defined in the Access to Information Procedure Rules; or

- (e) is already subject to separate appeal, adjudication, litigation, mediation or dispute resolution.

If a question or statement is rejected then the Council will provide a written explanation as to why it has been rejected.

Questions or statements which have not been rejected will be circulated to all Members before the meeting.

The Chairman will invite the person who gave notice of the question or statement, to ask the question or statement. The person asking the question or statement must be present at the meeting. However, the Chairman may exercise their discretion to allow a question or statement to be read out by an Officer in the absence of the person making it.

There is no further opportunity for a member of the public to make a statement or to ask a supplementary question.

The Leader, relevant Cabinet Member or Chairman of the relevant Committee will respond to the question or statement orally or where a response cannot be provided at the meeting, a written response will be provided within 5 working days of the meeting.

No other Member shall be permitted to speak.

Any question or statement of which proper notice has been given but which is not dealt with in the allotted time of 30 minutes will not be held over to the next meeting. After the meeting a written response will be given in the form in which the question was received.

12.12 Executive [Leader] Statements

At every Ordinary Council meeting there will be a statement by the Leader. The purpose of an Executive Statement is to allow the Leader to update the Council on current issues of importance that cannot be covered elsewhere as part of the usual business.

At the meeting, the Leader of the Council will be entitled to address the Council for a maximum of 10 minutes.

12.13 Questions to the Leader and the Cabinet

The Leader and Cabinet Members will prepare reports comprising of a summary of business and news relevant to their respective portfolios, which has taken place since the last meeting of Council.

The Chairman will invite the Leader and the relevant Cabinet Members to introduce their respective reports and add any further information before inviting Councillors to ask questions as set out below:

- (a) Councillors may ask any questions without notice which relate to the functions of the Leader or Cabinet Members, the powers and duties of the Council or matters pertaining to the District.

- (b) A period of up to 1 hour shall be allowed for this item on the agenda.
- (c) A Councillor who has asked a question under this paragraph may ask one supplementary question which must arise directly out of the original question or the reply.

Replies to Questions

An answer to a question raised without notice may take the form of:-

- (i) A direct oral answer;
- (ii) Where the desired information is in a publication of the Council or other published work, a reference is made to that publication;
- (iii) Where the reply cannot conveniently be given orally, a written answer will be issued to the Member asking the question, and circulated to all Members within 10 working days of the meeting.

12.14 Statements by a Councillor

A Councillor may make a statement at an Ordinary Meeting of Council upon giving details of the subject to the Chief Executive or the Monitoring Officer by no later than 9 clear working days before the meeting.

No Councillor shall make more than 1 statement at any one Ordinary Meeting of the Council

The Chairman has the discretion to decline to allow any statement to be dealt with under this paragraph on the grounds that it addresses matters that would be inappropriate to consider at the meeting.

For the purposes of this rule, examples of what is “inappropriate” include anything that is defamatory, frivolous or offensive, is the subject of negotiation, court or other forms of legal proceedings, requires the disclosure or exempt or confidential information or is substantially similar to a question or statements put to a meeting of the Council within the last six months.

In determining whether or not a statement is inappropriate, the Chairman will take advice from the Chief Executive and/or the Monitoring Officer.

A response to each statement may be made by the Leader, the appropriate Cabinet Member or Chairman of the relevant Committee.

12.15 Statements by Chairmen

The Chairman of a Committee, Sub-committee, Working Group or Project Reference Group may make a statement at an Ordinary Meeting of Council on a key issue arising from the work of their Committee or group, which they consider should be brought to the attention of the Council.

Details of the issue to be brought to the attention of the Council must be given to the Chief Executive or the Monitoring Officer no later than 9 clear working day before the

meeting.

12.16 Petitions

These Council Procedure Rules apply when a petition is required to be reported to the Council in accordance with the Councils Petition Policy.

12.17 Motions

Scope

No motion shall be put unless it relates to a matter over which the Council has power or which affects the Council or the District.

Any Motion which relates to an Executive Function shall be deferred by the Monitoring Officer to the next available Cabinet meeting for consideration and determination.

Submission of Motions on Notice

Notice of the Motion and the proposed wording shall be submitted to the Chief Executive or Monitoring Officer and shall contain the names of at least [5] Councillors supporting the Motion which can include the Member proposing and seconding the Motion.

Such notices may be submitted in person, by post or electronic mail 9 clear working days before the meeting of Council.

Motions that have been received in accordance with these Rules will be included on the agenda unless the Members proposing the Motion gives written notice that they intend to withdraw it or defer it to a subsequent meeting of Council.

A maximum of six Motions may be considered at any given meeting, any additional Motions shall be deferred to the next meeting of Council. These six Motions shall reflect the current political balance and accordingly shall be proportioned as follows:

- 3 Motions to the Conservatives;
- 2 Motions to the Green and Independent Group; and
- 1 Motion to the Labour and Halstead Residents Association.

Motions without Notice

The following Motions may be moved without notice:-

- (a) The appointment of a Chairman in the absence of the Chairman and Vice Chairman;
- (b) In relation to the accuracy of the minutes of the meeting;
- (c) The referral of an issue to the Cabinet or a Committee of the Council if it is within their terms of reference;

- (d) The adoption of a recommendation of the Cabinet or a Committee of the Council or an Officer, presented as part of the agenda including any consequent motions or resolutions;
- (e) To withdraw a Motion or a question (by the proposer only, and no seconder is required);
- (f) To amend a Motion or **recommendation in a report (by the proposer only)**
- (g) To adjourn the debate or the meeting;
- (h) To exclude the public and press from the meeting under the relevant statutory provisions and in accordance with the Access to Information Procedure Rules;
- (i) To change the order of business on the agenda, proceed to the next item of business or put to a vote the matter under debate;
- (j) To suspend a particular Council Procedure Rule in accordance with the provisions set out in paragraph x; or
- (k) That a Councillor not be further heard or be required to leave the meeting due to their conduct during the meeting.

Rescinding a Preceding Resolution

No motion to rescind any resolution passed within the preceding 6 months, and no motion or amendment to the same effect as one which has been rejected within the preceding 6 months, shall be considered, unless:

- (a) In the opinion of the Chairman significant new information has come to light since the original debate; or
- (b) The Notice thereof given in accordance with paragraph xx (Submission of Motions on Notice) with the names of at least 16 Members of the Council is received by the Chief Executive or the Monitoring Officer 9 clear working days before the meeting; or
- (c) It is moved in pursuance of a recommendation in a report to the meeting.

Dealing with Motions on Notice at the Meeting

Valid Motions will be listed on the agenda in the order in which notice was received, unless withdrawn by the proposer to the Motion.

If the Proposer or the Secunder (or a Member nominated as such) is not present at the meeting, then the Motion will be declared by the Chairman as having failed and the Chairman will immediately move onto the next item of business on the agenda.

12.18 Rules of Debate

Debate Etiquette

A Member when speaking will stand and address the Chairman.

While a Member is speaking, all other Members shall remain seated, unless raising a

point of Order or Personal Explanation.

A Member shall indicate they wish to speak by raising their hand, but shall only speak when called by name by the Chairman.

Members will, when speaking, refrain from making comments of a personal nature about another Councillor.

Member will refrain from disrupting

Whenever the Chairman speaks during a debate, any Members then standing shall be seated and the Council shall be silent.

Discussion of the Motion at the Meeting

Any Councillor that speaks on a Motion shall address the Chairman and shall ensure that their speech is strictly related to the Motion under discussion and necessary for the progression of the debate or to a Point of Order as set out in paragraph x.

The Chairman has the right to advise Councillors that they are no longer addressing the motion and to curtail excessive speeches.

Number of Speeches

No Member may speak more than once in a debate on a Motion unless:

- (a) The Proposer of the Motion shall have the right of reply at the close of the debate and immediately before the question is put to the vote. Such reply shall be confined to answering the previous speakers and shall not introduce any new matter;
- (b) The Leader of the Council (in respect of motions concerning Cabinet functions) or the relevant Committee Chairman (in respect of motions concerning non-Cabinet functions) shall be entitled to a right of reply;
- (c) On a Point of Order; or
- (d) Point of Personal Explanation; or
- (e) On an Amendment to the Motion.

12.19 Speeches by Proposer and Second

The Proposer

At the meeting the Chairman will invite the proposer of the Motion to present the Motion to the meeting and formally move it.

The Proposer of any motion which is the subject of a debate shall make a speech as soon as the Motion has been seconded.

In the case of Motions arising from a recommendation or report from the Cabinet,

the Leader or relevant Cabinet Member will introduce the recommendation and propose the Motion.

The Secunder

Every motion shall be formally seconded before the Chairman opens up the debate. The seconder of a motion may reserve their speech for a later period in the debate.

Length of Speech or Statement

Members will usually be expected to speak for no longer than 5 minutes unless a point is particularly complex or detailed. Any extension in time permitted for a speech will be at the discretion of the Chairman.

12.20 Amendments to Motions

An amendment may be moved if they are relevant to the Motion and propose changes to the Motion by either:

- (a) Leaving out words;
- (b) Leaving out words and inserting or adding others;
- (c) Inserting or adding words;
- (d) Change the Motion so that it refers the matter to the Cabinet, Committee or Cabinet Member for consideration.

The omission, insertion or addition of words must not be capable of negating or nullifying the effect of the Motion under consideration, or have the effect of introducing a new subject matter into the Motion.

No amendment to any Motion shall be moved unless written notice has been given to the Chief Executive or Monitoring Officer **by 12 noon on the third working day** before the meeting.

Recommendations contained within reports due to be considered by Council shall be preserved, accordingly, no Motion shall be brought that seeks to alter a recommendation contained within a report before the meeting, unless in accordance with paragraph 12.16(f). The only exception shall be to the Budget report considered by the Council at its Budget meeting, for which Members may be able to submit amendments to the Motions in accordance with the provisions set out within paragraph 12.17.

The Chairman may, in consultation with the Chief Executive and Monitoring Officer agree to an urgent amendment if there are exceptional reasons why notice could not be given in accordance with this paragraph.

The proposed amendment will be circulated to Chief Officers for the purposes of assessing the potential budgetary or legal impact and consequences for the Council.

If the proposer and seconder of the original motion consents to the amendment it can be adopted without the need for further debate or vote. In such instance the amended motion then becomes the Substantive Motion upon which any further amendment can be moved.

Amendments will be dealt with in the order they are received by the Chief Executive or Monitoring Officer.

Only one amendment can be moved, seconded and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.

Before a vote on an amendment the proposer of the amendment will be given a right to reply.

If an amendment is carried when put to the vote, then the Motion as amended shall take the place of the original motion and become the substantive motion.

If an amendment is lost when put to the vote, then the next proposed amendment will be considered, if there is no further amendment then the original motion will be put and opened for debate.

12.21 Points of Order and Personal Explanation

A Councillor may raise a Point of Order or Personal Explanation and shall be invited by the Chairman to speak on the issue forthwith.

The Point of Order may only relate to an alleged breach of the Council Procedure Rules or a statutory provision and the Member shall specify the nature of the breach.

The Chairman shall consider the Point of Order and shall give their ruling on the matter. The ruling of the Chairman will be final.

A Personal Explanation shall be confined to some material part of their former speech which may have been misunderstood or misrepresented in the present debate.

No Point of Order or Personal Explanation shall be taken after the vote on the matter has been taken.

12.22 Voting

General Provisions

Unless required otherwise by law, all matters shall be decided by a simple majority of those present at the meeting at the time the question is put.

Voting shall be by show of hands, or such other method as determined by the Chairman.

In the event of an equality of votes on either side, the Chairman will have a second or casting vote.

Where the Council is making an appointment, and there are two or more persons nominated the decision will be taken by majority ballot. Where there is not an overall majority in favour of one person a further ballot will be undertaken with the person with the least votes being struck off the list and so on until a majority of votes is cast in favour of one person

Recording Votes

An individual Councillor shall have the right to have their votes for, against or abstention from the vote recorded in the minutes provided that this is requested immediately after the vote is taken.

Recorded Votes

If, immediately before the vote is taken, 3 Councillors request a recorded vote, the Chief Executive or the Monitoring Officer in their absence shall call each Member present to state whether they vote for, against or abstain. The names for, against and abstain for the motion or amendment shall be taken down in writing and entered in the Minutes.

Budget and Council Tax Votes

The mechanism for recorded votes as set out in paragraph x above shall apply automatically in the case of any decision (including any amendments to the substantive motions) relating to the Budget or Council Tax at the annual budget decision meeting.

This provision cannot be suspended under paragraph x.

12.23 Substitute Members

Where a Member of a Committee are unable to attend a meeting of that committee, another Member ('the Substitute Member') may be appointed as a member of that Committee in place of the Member.

A substitute is appointed when a written substitution notice is received by the Governance Team no later than 1 Hour before the start of the relevant meeting.

A substitution notice may be sent by:

- (i) the Member appointing their substitute;
- (ii) The Leader of the Member's Political Group; or
- (iii) the Deputy Leader of the Member's Political Group.

The effect of a substitution notice is that the Member named in the notice shall cease to be a member of that committee for the duration of that meeting and the Substitute Member shall be a full member of the committee for the same period.

A substitution notice may be revoked by the Member or the person who gave it at any time preceding the deadline for the giving of a substitution notice.

Each political group shall annually appoint up to 3 Substitute Members at the Councils AGM, for each of the Committees to which they have Members appointed.

With regards to the Planning and Licensing Committees, the nominated Substitute Members shall undertake all required knowledge and training before they are permitted to participate as a Member of the relevant Committee.

All named Substitute Members shall be permitted to attend the relevant Committees as an observer on those occasions where they are not acting as a notified Substitute Member.

12.24 General disturbance

In the event of a general disturbance which in the opinion of the Chairman renders the due and orderly conduct of the business impossible, the chairman may without question adjourn the meeting for such period as they consider necessary and expedient.

Disorderly Conduct of a Member

If at a meeting any Member, in the opinion of the Chairman, misconducts themselves by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly, or offensively or by wilfully obstructing the business of the Council, any Member may move:

12.3.1 That the Member shall not be heard further; and the Motion if seconded shall be put and determined without discussion or debate.

12.3.2 If the Member named continues their misconduct after a Motion under paragraph x above has been carried, a Member shall:

- (i) Either move that the Member leaves the meeting; in such case the motion shall be put and determined without seconding, discussion or debate; or
- (ii) The Chairman may adjourn the meeting for such period as they consider expedient; and
- (iii) The Chairman may also give such directions as they consider appropriate for the removal of the member and the restoration of order to the meeting.

Disorderly Conduct of a member of the Public

If any member of the public interrupts the meeting the Chairman shall, in the first instance, issue them with a verbal warning. If the interruption continues, the Chairman shall request that they leave the meeting and in the event that they do not leave, the Chairman shall have the power to adjourn the meeting and/or order their removal from the meeting room.

12.25 Suspension of the Council Procedure Rules

Any of these Procedure Rules may be suspended by the way of motion carried

by a simple majority at any meeting of the Council, save and except for paragraph x (Budget).

12.26 Procedure Rules applying to Committees

The following Council Procedure Rules shall apply to Committees and Working Groups:

- (a) Quorum
- (b) Rules of Debate, except those relating to standing; length of speeches and ability to speak only once.
- (c) Voting
- (d) Record of Attendance
- (e) Length of Meeting
- (f) Suspension of the Procedure Rules;
- (g) General Disturbance;
- (h) Points of Order or Personal Explanation;
- (i) Documents;
- (j) Minutes;
- (k) Public Question Time; and
- (l) For the Licensing and Planning Committees only, Substitute Members

R13. Cabinet Procedure Rules

13.1 Cabinet meetings

The Cabinet will meet at least 6 times a year at times to be agreed by the Leader.

Additional Cabinet meetings may be called from time to time by the Leader as and when required.

The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

13.2 Quorum

The quorum for a meeting of the Cabinet (or a committee of it) shall be 3 Members, which shall include the Leader, or in their absence the Deputy Leader.

13.3 Attendance at meetings

All Cabinet Members are entitled to attend the Cabinet meetings and hold full speaking and voting rights.

The Leader may invite other Members to attend Cabinet meetings as and when required, and may invite them to speak either on individual items or on any items on the Agenda. In such instances the invited Members will not be entitled to vote on any item on the Agenda.

Members of the public are entitled to attend meetings in accordance with the Access to Information Procedure Rules.

13.4 Order of business

The Cabinet will conduct the following business:

- (a) consideration of the minutes of the last meeting, where available;
- (b) declarations of interest, if any;
- (c) To deal with questions from members of the public in accordance with the Council Procedure Rules;
- (d) matters referred to the Cabinet (whether by the Performance Management Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution;

- (e) consideration of reports from the Councils Overview and Scrutiny Committees; and
- (f) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in this Constitution.

13.5 Taking Decisions

Executive Decisions will be taken at a meeting convened in accordance with the Access to Information Procedure Rules.

Where an Executive function has been delegated to a committee of the Cabinet these rules will apply to that Committee.

All decisions will be taken in accordance with these procedure rules, and where applicable the Council Procedure Rules and in accordance with those delegations contained in Chapter 4.

13.6 Chairing the Meeting

Cabinet meetings will be chaired by the Leader or in their absence the Deputy Leader.

13.7 Conflicts of Interest

Where the Leader has a conflict of interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in this Constitution.

If every member of the Cabinet has a conflict of interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in this Constitution.

In the event that a conflict of interest arising in the exercise of an Executive Function which has been delegated to a Cabinet Committee, a Cabinet Member or an Officer, then the matter will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members as set out in this Constitution.

13.8 Who can put items on the Cabinet agenda?

The Leader will determine the items on the Agenda for Cabinet meetings, **in consultation with the Chief Executive**. The Leader may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Cabinet Committee or any Member or

Officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

Any Cabinet Member may require the proper officer to list an item on the agenda of the next available Cabinet meeting for consideration. If they receive such a request the proper officer will comply.

Any Member may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available Cabinet meeting. The Agenda of the meeting will give the name of the Member who asked for the item to be considered. The Member will then be invited to attend and speak on the item at the meeting, **but will not be entitled to vote on the item.**

The Monitoring Officer, S 151 Officer or the Head of Paid Service may include an item for consideration on the agenda of a Cabinet Meeting and may request such a meeting in pursuance of their statutory roles.

13.9 Consultation

All reports to the Cabinet which relate to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Performance Management Scrutiny Committee and will provide details of the outcome of that consultation.

Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and in accordance with any statutory requirements in force at the time the consultation is undertaken.

13.10 Member Question Time

A Member who is not a Member of Cabinet, may ask the Leader or a Cabinet Member any question on any matter in respect of which the Cabinet has powers or duties, or which affects the Braintree District provided notice has been given in writing to the Governance Team no later than 12 noon, 2 working days before the meeting.

No more than two questions may be put by the Member at any meeting.

The time limit for any question is [3] minutes and any reply will be limited to [5] minutes.

Questions shall normally be dealt with in the order in which notice was received. However, the Chairman may revise the order of questions if they considers it appropriate, and may group together similar questions.

There is no opportunity for a Member to make a further statement or to ask a supplementary question.

The Leader or relevant Cabinet Member will respond to the question orally or where a response cannot be provided at the meeting, a written response will be provided within 10 working days of the meeting.

The right to ask the question shall be at the Chairman's discretion, having regard to the reasonable and efficient management of the meeting.

13.11 Matters of Urgency

Where the Monitoring Officer in consultation with the Chief Executive considers that a matter of urgency has arisen in connection with the work of the Cabinet and requires a decision before the next regular meeting of the Cabinet, then the following shall have the authority to take the decision

- (a) the Leader; or
- (b) in their absence the Deputy Leader or
- (c) in their absence the Cabinet Member who has responsibility for the matter concerned.

Where an urgent decision has been taken, the decision taker shall take a report setting out the nature of the decision taken, the reasons for the urgency and details of the actions taken, to the next Cabinet meeting.

This provision shall only apply to Executive functions, or those functions which have been delegated by Council to the Cabinet or a Cabinet Committee.

A decision made by the Cabinet pursuant to this paragraph shall not be subject to the Call-In Procedure and may be implemented with immediate effect.

This provision will not apply to a Key Decision. If an Urgent Key Decision is required then the provisions as set out in the Access to Information Procedure Rules must be followed.

15. Access to Information Procedure Rules

15.1 Introduction

These rules apply to meetings of the Council, Council Committees, Scrutiny Committees and Cabinet.

As the Council is functioning under executive arrangements these rules have been prepared in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the provisions set out in sections 100A-H and Schedule 12A of the Local Government Act 1972 (as amended).

These rules do not affect any specific rights to information contained elsewhere in the Constitution or by law.

15.2 Rights to Attend Meetings

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

Members of the public shall not be admitted into any meeting in excess of the number which the public accommodation can safely contain.

15.3 Notices of Meetings

The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the public notice board at Causeway House, and on the Council's website.

If a meeting is convened at shorter notice, notice will be issued at the time the meeting is convened, and in accordance with the general exception and special urgency rules set out in paragraph x and x.

15.4 Notice of Private meetings of the Executive (Cabinet)

When the public are to be excluded from a meeting (or part of a meeting) of the Cabinet or a Cabinet Committee, a notice of intention to hold a meeting in private will be published on the Council's website (as part of the Decision Planner) at least 28 days before the date of the meeting.

The notice will state the reasons why the meeting (or part of the meeting) is to be held in private and how to make objections to this.

If objections are received then these will be considered by the Chief Executive in consultation with the Leader. In the absence of the Chief Executive the matter will be dealt with by the Monitoring Officer. In the absence of the Leader the consultation will be with the Deputy Leader.

At least five days before the meeting, a further notice will be published of the

Council's intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be held in private, details of any representations made about holding the meeting in private, and a response to those representations. This notice, will go out with the agenda.

15.5 Access to Agenda and Rights before the Meeting

At least five clear working days before the meeting, the Council will make copies of the following documents available for inspection by members of the public at its Council office and will publish them on its website;

- (a) the agenda for the meeting; and
- (b) any reports which are to be made available to the public in accordance with these rules.

Where a meeting is convened at shorter notice, a copy of the agenda and the associated reports will be made available for inspection as soon as possible and no later than the commencement of that meeting.

If an item is added to the agenda after it has been made publicly available, the revised agenda and any reports relating to the item for consideration will be made available for inspection from the time the item was added to the agenda.

Where reports are prepared after the agenda has been published and circulated to members, the designated officer shall make each late report available to the public as soon as the report is completed and send it to all Members.

15.6 Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Members in connection with an item;

to any person on payment of a charge for postage and any other costs. Copies will be freely available on the Councils website.

Except during any part of a public meeting during which the public are excluded, the Council will make available for use by members of the public present at the meeting, a reasonable number of copies of the agenda and reports for the meeting.

15.7 Access to Minutes

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, options considered and rejected, a record of any conflict of interest declared by any Member [of cabinet] and in respect of any declared conflict of interest a note of any dispensation granted, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) 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;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

A copy of the minutes of all public meetings will be available for public inspection at the Council offices on weekdays during office hours, and will also be available on the Councils website.

15.8 Background Papers

List of background papers

Officers will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

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

but does not include published material or those which disclose exempt or confidential information (as defined in paragraph 10) and in respect of Cabinet reports, the advice of a political advisor.

Public inspection of background papers

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

15.9 Summary of Public's Rights

These rules constitute a written summary of the public's rights to attend meetings and to inspect and copy documents.

15.10 Recording of meetings by persons present

Requests from reporters

The Chairman shall respond to requests made in accordance with section 100A(6)(c) of the Local Government Act 1972 from any person attending the meeting for the purpose of reporting the proceedings to be afforded reasonable facilities for taking their report.

Use of electronic devices at meetings held in public

Members of the public or representatives of the media may use electronic devices at meetings held in public for the purposes of filming, audio recording, taking photographs, blogging, tweeting and posting to social media websites.

The use of electronic devices for reporting purposes is, in certain circumstances, recognised as contributing towards transparency and democratic debate and there is a presumption in favour of allowing their use. However, the proceedings of a meeting must not be disrupted by the use of electronic devices and such use must not inhibit the proceedings. Accordingly oral commentary to any recording made during the meeting will not therefore be permitted.

Filming and audio recording of meetings using small devices, is generally permitted.

Any filming or audio recording must take place from fixed positions in the meeting room, the location of which shall be agreed with the Chairman of the meeting. Equipment must be set up before the meeting starts.

If the Chairman considers that the filming or audio recording is disrupting the meeting in any way, the operator will be required to stop immediately.

No-one is permitted to film, record or report any part of a meeting where the press or public are excluded because Confidential or Exempt Information would be disclosed. This includes Members present at the Meeting.

No restrictions will be placed on anyone in the public gallery at a meeting in relation to the use of social media and photography, provided that there is no flash photography and the Chairman considers their actions are not disrupting the proceedings of the meeting.

At the start of the meeting the Chairman will request that all mobile phones are set to 'silent' to ensure that the meeting is not disrupted.

15.11 Exclusion of Access by the Public to Meetings

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.

Meaning of Confidential Information

Confidential information means information:

- (a) given to the Council by a Government Department on terms which forbid its public disclosure; or
- (b) which cannot be publicly disclosed by any enactment or by Court Order.

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.

Meaning of Exempt Information

Exempt information means information which is covered by the Local Government Act 1972, Schedule 12A and falls within the following 7 categories (subject to any condition/qualifications):

| | Category | Conditions |
|----|--|---|
| 1. | Information relating to any individual. | Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated. |
| 2. | Information which is likely to reveal the identity of an individual. | Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles. |
| 3. | Information relating to the financial | Information within paragraph 3 is |

| | | |
|----|--|--|
| | or business affairs of any particular person (including the authority holding that information. | not exempt if it must be registered under <ul style="list-style-type: none"> • The Companies Act 1985; • The Charities Act 1993; • The Friendly Societies Acts 1974; • The Industrial and Provident Societies Acts 1965 to 1978; and • The Building Societies Act 1986. |
| 4. | Information relating to any consultations or negotiations, or contemplated consultations or negotiations with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council. | Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the Council in those or any other consultations or negotiations in connection with a Labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute. |
| 5. | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. | |
| 6. | Information which reveals that the Council proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment. | Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made. |
| 7. | Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. | |

In determining whether the exemptions above can be applied the public interest test as applicable under the Freedom of Information Act 2000 shall be applied. Accordingly the information will only remain exempt if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

15.12 Exclusion of Access by the Public to Reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Paragraph 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.

15.13 Application of Rules to the Cabinet

If the Cabinet or its Committees meet to take a Key Decision then it must comply with paragraph 1 - 11 unless paragraph 15 (general exception) or paragraph 16 (special urgency) apply. A Key Decision is as defined in Article xx of this Constitution.

This requirement does not include meetings, whose sole purpose is for Officers to brief Councillors.

Paragraphs 12 - 23 also apply to the Cabinet and its Committees.

15.14 Procedure before taking Key Decisions

Subject to paragraph 15 (general exception) or paragraph 16 (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 28 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 Cabinet or its Committees, notice of the meeting has been given in accordance with paragraph 4 (notice of meetings) and if the decision is to be taken in private at the meeting, notice has been given in accordance with paragraph x (procedure prior to private meetings).

15.15 Forward Plan

The Forward Plan will be available for inspection by the public at the Council offices and on the Councils website.

Period of Forward Plan

The Forward Plan will be prepared on behalf of the Leader to cover a period

of at least three months, beginning with the first day of any month.

The Forward Plan will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Cabinet Committee, or individual Cabinet Members, in the course of the discharge of an executive function.

The Forward Plan 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) where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name together with the relevant officers' contact details;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision; and
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter.

15.16 General Exception from inclusion on the Forward Plan

Where the publication of the intention to make a Key Decision on the Forward Plan is impracticable, then subject to paragraph x (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 notice has been given on the Forward Plan for at least 28 clear calendar days;
- (b) the proper officer has informed the Chairman of the Performance Management Scrutiny Committee, or if there is no such person, each member of the Performance Management Scrutiny Committee, by notice in writing, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council and on its website; and
- (d) at least five clear days have elapsed since the proper officer complied with (a) and (b) above.

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

As soon as reasonably practicable after the proper officer has complied with 15.1 they must make available at the Council office and on the Council website a notice setting out the reasons why it is impracticable to defer the decision.

15.17 Special Urgency relating to Key Decisions

If by virtue of the date by which a decision must be taken paragraph 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of:

- (a) the Chairman of the Performance Management Scrutiny Committee; or
- (b) if there is no Chairman of the Performance Management Scrutiny Committee, or the Chairman of that Committee is unable to act, then the agreement of the Chairman of the Council, or in the absence of the Chairman of the Council the Vice- Chairman of the Council.

That the taking of the decision is urgent and cannot be reasonably deferred.

As soon as reasonably practicable after the agreement has been obtained a notice must be made available at the Council office and on the Councils website setting out the reasons why the matter is urgent and why it cannot reasonably be deferred.

15.18 Reports on Special Urgency Decisions

The Leader will submit a report to the next practicable ordinary meeting of the Council, on Cabinet decisions or executive decisions taken by Cabinet Members or Officers where the making of the decision was agreed as urgent in accordance with paragraph 15 since the last such report. The report will include the number of decisions made, the particulars of each decision made and a summary of the matters in respect of which those decisions were made.

If no such executive decisions have been taken, then no such report is necessary.

15.19 Report to Council where the Key Decision procedure is not followed

If an executive decision has been made and not treated as a Key Decision and the Performance Management Scrutiny Committee is of the opinion that the decisions should have been treated as a Key Decisions, the Committee may require the Cabinet to submit a report to the Council within such reasonable period as the Committee may specify.

15.20 Cabinet's report to Council

In the event that the Performance Management Scrutiny Committee request a report in accordance with paragraph 15.18, the Cabinet must prepare a report for submission to the meeting of Council specified by the Committee.

However, if the next meeting of the Council is within 7 days of receipt of the written notice, then the report may be submitted to the next Council meeting.

The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

15.21 Records of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce and publish 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; any interest declared in relation to the matter decided by any Member of the decision making body which made the decision and in respect of any declared interest a note of any dispensation granted by the Head of Paid Service.

15.22 Attendance at Private Meetings of the Cabinet

All Members of the Cabinet will be served notice of, and are entitled to attend, all private meetings of the Cabinet or Committees of the Cabinet.

The Chief Executive, the Deputy Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and the Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend any private meeting of Cabinet.

15.23 Decisions by individual Cabinet Members

No Cabinet Member shall take a decision unless they have been provided with a report on the issues by the relevant officer. Such report shall contain clear details of the issue, the decision the Cabinet Members is being asked to take, and the details of any alternative options that have been considered. Such report will be published if the recommendations have been approved by the Cabinet Member.

As soon as reasonably practicable after an executive decision has been taken by an individual Cabinet Member, a record of the decision shall be prepared and will include:

- (a) the date it was made,
- (b) a statement of the reasons for it,
- (c) any alternative options considered and rejected,

- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the decision-maker and in respect of any interest declared a note of any dispensation granted by the Head of Paid Service.

This information can be included within the initial report where appropriate to do so.

15.24 Record of individual decision

As soon as reasonably practicable after an officer has made a decision delegated to them by the Council or any of its committees, or by the Cabinet or a Cabinet Member, then the decision must be recorded if

- (a) it relates to the discharge of an executive function; or
- (b) it is a decision which is not the responsibility of the Executive and the effect of the decision is:
 - (i) to grant a permission or licence; or
 - (ii) to affect the rights of an individual; or
 - (iii) to award a contract or incur expenditure which materially affects that relevant local government body's financial position.

Such a record must be produced by or on behalf of the officer concerned and must include a record of the decision including:

- (a) the date it was made,
- (b) a statement of the reasons for it,
- (c) any alternative options considered and rejected,
- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted by the officer and in respect of any interest declared a note of any dispensation granted.

The provisions of Rules 19.7 (access to minutes) and 19.8 (inspection of documents after meetings) will also apply to the making of decisions by individual Cabinet Members and decisions taken by Officers which are required to be recorded. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

15.25 Additional Rights of Access for Councillors

Any document which is in the possession or under the control of Cabinet or its Committees and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member for at least

five clear days before the meeting except where the meeting is convened at shorter notice.

Such documents must be available when the meeting is convened and when an item is added to the agenda at shorter notice such a document must be available for inspection at the time the item is added to the agenda.

Any document which is in the possession or under the control of the executive of a local authority and contains material relating to any business transacted at a private meeting or any decision made by a Cabinet Member or Officer in accordance with executive arrangements must be available for inspection by any Member when the meeting concludes or immediately after the decision has been made and in any event within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

The above does not require a document to be available for inspection if it appears to the Proper Officer that it discloses:

- (a) exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act unless it is information of a description falling within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by the Authority in the course of negotiations for a contract) or paragraph 6; or
- (b) advice provided by a political adviser or assistant.

15.26 Scrutiny Committee's Access to Documents

Rights to copies

Subject to the provisions below, the Scrutiny Committees (including its working groups) will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its Committees; or
- (b) any decision taken by a Cabinet Member or any key decision.

Limit on rights

The Scrutiny Committees (including its working groups) will not be entitled to:

- (a) any document that is in draft form;
- (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; or
- (c) the advice of a political adviser.

18. Officer Employment Procedure Rules

These Rules are subject to and must be read in accordance with the provisions of The Local Authorities (Standing Orders) (England) Regulations 2001.

18.1 Recruitment and Appointment

Declarations

The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons; or if they are related in any other way to such persons.

No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.

A candidate who fails to disclose a relationship as set out in paragraph 1.1 above shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.

Seeking support for appointment

Subject to providing a written reference as set out below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

Subject to providing a written reference as set out below, no Councillors will seek support for any person for any appointment with the Council.

Nothing in paragraphs 18.1 will preclude a Councillor from giving a written reference for an applicant for submission with an application for appointment.

18.2 Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

- (a) Draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed.
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

- (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.

Where a post has been advertised as set out in paragraph 2.1 above, the Council shall:

- (a) interview all qualified applicants for the posts, or
- (b) select a shortlist of such qualified applicants and interview those included on the shortlist; or
- (c) where no qualified person has applied, the Council shall make further arrangements for the advertisement in accordance with 18.2(b) above.

18.3 Appointment of Head of Paid Service, Monitoring Officer and Chief Financial Officer

Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of a Committee of the Council established for the purposes of that recruitment.

That Committee must include as a minimum, the Leader, one Member of the Cabinet and the Chairman of the Performance Management Scrutiny Committee.

Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any Member of the Cabinet.

18.4 Appointment of Corporate Directors

The Committee of Council appointed for this purpose will appoint the Corporate Directors, as defined in this Constitution.

That Committee must include as a minimum, the Leader, one Member of the Cabinet and the Chairman of the Performance Management Scrutiny Committee.

An offer of appointment to a Corporate Director shall be made only where no valid well-founded objection from any Member of the Cabinet has been received.

18.5 Other Appointments at Tier 3

The appointment of Officers at Tier 3, i.e. those directly reporting to a Corporate Director, is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

The appointment of an assistant to a political group in pursuant to section 9 of the Local Government and Housing Act 1989 shall be made in accordance with the wishes of that political group.

18.6 Notification of Appointments

No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Corporate Director until:

- (a) The Chairman of the Committee established for the purpose of the recruitment to that post (on behalf of the Committee) has notified the Head of HR or their Deputy, of the name of the person to whom the post is to be offered and any other matter relevant to the appointment.
- (b) The proper officer has notified every Member of the Cabinet of the name and of the person to whom the post is to be offered and any other matter relevant to the appointment.

The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in paragraph 18.6(b) above.

An offer of appointment may be made if:

- (i) The Leader of the Council has notified the proper officer within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment.
- (ii) The proper officer has notified the Committee that they have not received any objection in the period specified in paragraph 18.6 above.
- (iii) The Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

18.7 Disciplinary Action

Statutory Officers

The Statutory Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and **shall be for no longer than 6 months**.

In the following paragraphs:

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the Councils paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the

Council;

- (f) “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or Councils as the Council considers appropriate
- (g) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the Council’s paid service or monitoring officer, as the case may be.

A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

Subject to paragraph 7.6, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 7.4 in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the Council;
- (c) a relevant independent person who has been appointed by another Council or Council’s.

The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 7.4 but may do so.

The Council must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

With regards to disciplinary issues in connection with the Statutory Officers, the panel can only make a recommendation for dismissal. In instances where its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules. The panel together with the Independent Persons must refer its recommendation to Full Council.

Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that

person's role as an independent person under the 2011 Act.

Corporate Directors

The Committee established by the Council for this purpose shall deal with disciplinary issues in connection with the Corporate Director and any assistant to political groups and resolve any action which it considers appropriate.

The Corporate Directors may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay until conclusion of the investigation and a decision has been made on whether to dismiss or not, and shall be for no longer than 6 months.

Other Officers

Members will not be involved in the disciplinary action or dismissal against any other officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply.

| | | |
|---|--|-------------------------|
| Governance Review: Part 1 | | Agenda No: 6 |
| Portfolio | Finance and Performance | |
| Corporate Outcome: | <p>A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure A prosperous district that attracts business growth and provides high quality employment opportunities Residents live well in healthy and resilient communities where residents feel supported A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers</p> | |
| Report presented by: | Kim Cole, Head of Governance and Monitoring Officer | |
| Report prepared by: | Kim Cole, Head of Governance and Monitoring Officer | |
| Appendix and Background Papers: | | Public Report |
| <ol style="list-style-type: none"> 1. Appendix 1: Petition Policy 2. Appendix 2: New Report Template 3. Appendix 3: Sealing Authorisation Forms 4. Appendix 4: Notice of Private Business | | Key Decision: No |
| Executive Summary: | | |
| <p>As the Council undertakes a full review of its Constitution it is important to ensure that its governance processes are robust and in line with the provisions of the new Constitution. Accordingly in parallel to the Constitution Review a review of the Council's Governance procedures is also being undertaken.</p> <p>This report sets out the first wave of the view of the Councils Governance Processes and considers:</p> <ol style="list-style-type: none"> 1. A Petition Policy; 2. A New Report Template; 3. A Sealing Authorisation Form; 4. A Notice of Private Business. | | |

Recommended Decision:

The Corporate Governance Group are asked:

1. To note the introduction of;
 - (a) A Petition Policy;
 - (b) A New Report Template;
 - (c) A Sealing Authorisation Form;
 - (d) A Notice of Private Business for Cabinet and Council.
2. To agree that comments and suggested amendments will be considered by the Monitoring Officer and incorporated where necessary ahead of approval by Council on 29 March 2021

Purpose of Decision:

To agree to the introduction of key governance documentation in order to ensure more efficient governance arrangements and bring certainty to its decision making and comply with the Council's statutory requirements.

Any Corporate implications in relation to the following should be explained in detail.

| | |
|---|--|
| Financial: | No matters arising out of this report. |
| Legal: | <p>The Council must have a robust and efficient governance process in place to support the provisions of the Council's Constitution.</p> <p>The proposals set out in this report ensure that the Council complies with its statutory obligation and ensures throughout the decision making process there is accountability and transparency.</p> |
| Safeguarding: | No matters arising out of this report. |
| Equalities/Diversity: | Equality Impact Assessment not necessary at this stage of considerations. |
| Customer Impact: | No matters arising out of this report. |
| Environment and Climate Change: | No matters arising out of this report. |
| Consultation/Community Engagement: | No matters arising out of this report. |
| Risks: | No matters arising out of this report. |
| Officer Contact: | Kim Cole |
| Designation: | Head of Governance and Monitoring Officer |
| Ext. No: | 2629 |
| E-mail: | Kim.cole@braintree.gov.uk |

1. Introduction

- 1.1 As part of the wider review of the Council's Constitution it is important that the governance processes support the work undertaken through the Constitution and that these are robust and brings accountability and certainty.
- 1.2 Accordingly a range of processes have been considered and there have been key documents which have been identified as requiring updating or new documents being introduced.

2. The Petition Policy

- 2.1 Previously the Council's Constitution, as part of the Council Procedure Rules, set out the provision applicable to the Council's management of Petitions submitted for consideration.
- 2.2 The review has identified that these provisions would be better addressed within their own Policy Document, which could be expanded upon to ensure that it covers the full process, without then over whelming the Council's Procedure Rules.
- 2.3 Currently the Council set out that a Petition will only be considered if it has at least 20 signatories. A comparison of this has revealed that there is a range of levels at which this threshold is set by other Authorities, as set out in the table below. The recommendation is that the threshold is increased to 30 signatories.

| | Petition Threshold |
|-------------------------------|---------------------------|
| Braintree DC (current) | 20 |
| Colchester BC | 1 |
| Tendring DC | 30 |
| Chelmsford CC | 50 |
| Basildon BC | 1 |
| Brentwood BC | 10 |

- 2.4 The current provisions allow for anyone living, working or learning with the District to sign a Petition. However, it only allows for an individual who lives or works within the District to start a Petition. This excludes a significant number of students from being able to bring a Petition on a matter of importance to them. Accordingly it is recommended that this is expanded to mirror the parameters of those that can sign a Petition.
- 2.5 In order to ensure that Petitions are signed by those within the District, it will now be a requirement for those signing the Petition to be registered on the electoral register, accordingly they will be required to provide their full name and address, so that the validation process can be undertaken.
- 2.6 The Council are also looking to bring in its own online E-Petition, which will allow for an electronic Petition to be started by the Petition Organiser, which complies with the Council s Policy.

- 2.7 How the Council deal with a Petition will largely be determined by how many signatures the Petition contains and the subject matter. The review considered the current thresholds, which restricted the Petition to being considered under two provisions, namely by Cabinet or by Council. As part of the review it was necessary to consider the current thresholds and expand on the two provisions. The table below sets out the thresholds at other local authorities.

| | Cabinet | Council | Officer Evidence |
|-------------------------------|---|----------------|-------------------------|
| Braintree DC (current) | 20 - 999 | 1,000 | 500 |
| Colchester BC | 1 - 1,799 | 1,800 | 900 |
| Tendring DC | 30 - 249 | 250 | / |
| Chelmsford CC | Cabinet Member 50 – 1,999 | 2,000 | 500 |
| Basildon BC | Committee Chair 1 – 999 Committee 100 - 4999 | 5,000 | 1,000 |
| Brentwood BC | Officer 10 – 1,499 | 1,500 | / |

- 2.8 Reflecting on the above comparison, the recommendation is that the new Petition Policy contains three thresholds under which a petition will be considered, namely:

(a) A Petition signed by between [30] and [999] people:

The Performance Management Scrutiny Committee will consider the petition and shall:

- i. determine the Petition in accordance with paragraph 7;
- ii. Refer the Petition to a Chief Officer for determination; or
- iii. Refer the Petition to a Cabinet Member for determination.

(b) Petitions signed by between [1000] and [1,999] people:

The Petition will be considered at a meeting of Cabinet and determined in accordance with paragraph 7.

(c) Petitions signed by [2000] or more people:

The Petition will be considered at a meeting of the Full Council and determined in accordance with paragraph 7.

- 2.9 There is also the provision that a Petition could be brought calling for a Chief Officer to give evidence before the Performance Management Scrutiny Committee. This is rarely exercised. However, having previously been set at 500 signatories, it is recommended that this is increased to reflect the minimum threshold under which a petition will be considered at a public meeting, namely 1000.

- 2.10 Currently the Council's Procedure Rules excludes a Petition which has been submitted and is substantially similar to a previous petition received in the previous 12 months. The Council's Constitution sets out that Members are unable to bring forward a matter for consideration within 6 months of a similar consideration. It would seem appropriate that the public's restriction is in line with that of Members, and therefore the proposal is to reduce this to 6 months, which would be in line with other local authorities.
- 2.11 Finally the previous provisions allowed for the Petition Organiser to appeal to the Performance Management Board if they felt that their Petition had not been dealt with properly. However, the consideration of the appeal is limited to whether the process set out in the Policy has been followed and therefore is a paper based exercise, Officers believe that it would be very difficult to have a meaningful discussion on the issue before a full Committee. Accordingly it is proposed that the appeal should be considered by the Chairman of the Performance Management Scrutiny Committee.

3. New Report Template

- 3.1 The Council have a template report which is used for matters coming before the Cabinet and Council for consideration. However many Officers find the current template clunky and repetitive to complete. There is also an inconsistent approach to the information that would sit within the Executive Summary at the front of the report and the additional information required within the body of the report, with many Officers choosing to place all the information in the Executive Summary.
- 3.2 The current use of boxes creates formatting difficulties, which often impacts the publication of the Agenda.
- 3.3 The absence of a consistent approach to the use of paragraph numbers can make it difficult to navigate the report or use it as a reference point during the meeting and debate.
- 3.4 The new template therefore sets out very clear headings under which the author is required to provide the information and details relevant to the matter and decision to be taken. These headings will be fixed and the author will be required to ensure that all areas have been completed as part of the report.
- 3.5 As part of its consideration of a matter, the decision maker must set out what options have been considered and discounted. This isn't always reflected in the current reports, and therefore the introduction of a specific heading will ensure that this information is contained within the report and it is clear to any reader what and why certain options were discounted.
- 3.6 It has been identified that a certain number of reports do not seek input from the Officer with the relevant expertise. This means that there are finance and legal sections of the reports which are not completed by Officers in finance or Legal, but rather than the report author. This means that key risks associated with those areas are not captured as part of the report and therefore are not known to the Decision Maker at the time of taking the decision. Accordingly it

will be mandatory that these sections must be considered and written by the respective service areas.

- 3.7 The inclusion of the 'other implications' heading allows the author to set out whether there are any other implications relevant to the decision. Under this heading it would be possible to set out any climate control or environmental issues, Safeguarding, Customer impacts, and risks not identified elsewhere in the report, and which currently appear on the front page of the reports.
- 3.8 The review has also highlighted that it is difficult to have certainty over whether the report an Officer is reviewing is the final version, or whether the relevant Officers have had an opportunity to input into it. This has slowed the internal sign off process, and meant that Management Boards consideration of them is not always taken at the point where all comments have been captured.
- 3.9 As a result it is recommended that there is a sign off box on each report which would provide assurances to the report as it progresses through the internal gateways ahead of publication. These boxes would be removed prior to publication.
- 3.10 The only exception to that would be where the report is used as part of the decision making by a Cabinet Member or an individual Officer, in which case the top boxes would remain and would be part of the approval process for that decision.
- 3.11 The intention is that this report template is used for all reports going before Council, Cabinet, Committees or working Groups. It would also be used as part of the concept stage for projects being taken through Management Board as part of the early considerations, and would then develop into the report for the relevant decision maker. By using the report in this way, it would ensure that it is a living document, and would avoid Officers having to write the same report a number of times as the project progresses towards a decision.
- 3.12 The current practice at the Council is for those reports containing confidential information, are duplicated and that a version is produced that has the confidential information removed. This means that any agenda will have two copies of the report, making the agendas seem bulkier than they may otherwise be, but also represents a real risk that the wrong report may be published as part of the Agenda.
- 3.13 As a result it is proposed that the Council remove the use of a duplicate report and introduce a Confidential Appendix. This Appendix would only contain the confidential information. This would remove the need for duplication and keep the confidential information separate from the body of the report.

4. Sealing Authorisation Forms

- 4.1 The Monitoring Officer is required to keep a register of all documents which have been sealed, and the sealing number which has been attached to that document.

- 4.2 As part of having a good audit trail is the ability to be able to identify who has given the appropriate authorisation for the entering into that particular contract. This can be essential in the event of a challenge.
- 4.3 Previously the Council did not keep the details of the authorisation given, but rather relied on Officers memory, minutes of meetings and reports to piece that information together. Similarly when presented with a Contract for sealing it was taken on good faith that the appropriate governance approval had been obtained.
- 4.4 In order to safeguard the Council against challenges and from entering into contracts before the authorisation has been obtained through the governance process, it has been necessary to introduce a Sealing Authorisation Form. This will assist Officers in ensuring that they have everything in order prior to its submission for sealing.
- 4.5 This has already been introduced as part of the sealing process and is brought to this meeting for noting only.

5. Notice of Private Business

- 5.1 The Council is permitted to take a decision in private if the requirements of Schedule 12A of the Local Government Act 1972 are met. However there are different statutory provisions around the requirement to give notice of the intention to take a decision in private depending on whether the decision is to be taken by Council or Cabinet.
- 5.2 The Council, in ensuring it is as transparent as possible, issues a Notice in respect of both Cabinet and Council meetings. However the statutory requirement is that a notice is given only where a Cabinet decision is to be taken in private.
- 5.3 The Current Notice has over time become a merge of the two provisions, and is no longer clear as to which statutory provision applies in which instance. As a result it is proposed that the two are separated into their own respective Notice Templates that can be used by the Governance Team at the time the Agendas are published, where private business is likely to be considered.

6. Conclusion

- 6.1 The changes proposed are necessary to bring the Council's Governance processes up to date, and to remove ambiguity and duplication, and ensure that it supports the Council's transparency around its decision making.



PETITIONS POLICY

1. Introduction

- 1.1 Braintree District Council (the Council) values the opinion of the people within its District. The petition process allows members of the public to have direct influence on the democratic process and to raise concerns that are important to them.
- 1.2 A petition is defined as a communication in writing or using an electronic facility which is signed by the appropriate number of qualifying people. In order to fall under this Policy, the petition must have at least **[30]** signatories.

2. The Petition Organiser

- 2.1 The Petition Organiser is the person who submits the petition to the Council. If the petition is compiled by an organisation, then they must ensure that they provide the contact details of the relevant person with who the Council can communicate with during its consideration of the petition.
- 2.2 The Council recommends that, before starting a petition, the Petition Organiser checks with the local District Councillor as they will be able to advise whether the Council is already acting on the matter and whether the Council is the most appropriate body to receive the petition.
- 2.3 It is the Petition Organisers responsibility to ensure that the petition complies with the requirements set out within this Policy and that those signing the petition are aware that the Council will publish the petition in full on its website once it has been submitted to the Council. In obtaining the signatories and submitting the petition to the Council, the Petition Organiser is confirming that they have consent from each signatory for the publication of their information.
- 2.4 If anyone under the age of 18 signs the petition, then the petition organiser must ensure that they have the parents' consent for the publication of their details contained within the petition.
- 2.5 A Member of the Council cannot start a petition or be designated as the Petition Organiser.

3. The Petition

- 3.1 A petition may be started by any person who **lives, works or learns** within the administrative boundaries of Braintree.
- 3.2 The petition must have a clear and concise statement covering the subject of the petition and set out the action the petitioners wish the Council to take.
- 3.3 A petition may be submitted on:
- (a) Issues relating to the Councils responsibilities; or
 - (b) Issues which affect the Braintree District or communities within the District, provided the Council is in a position to exercise a degree of influence.
- 3.4 A petition can request that:
- (a) the Council takes action or ceases taking action; or
 - (b) a matter be considered by the Chairman of the Performance Management Scrutiny Committee.
- 3.5 A petition can be submitted to the Council by sending it direct to the Governance Team, at Causeway House, Bocking End, Braintree, Essex, CM7 9HB or via email to governance@braintree.gov.uk.
- 3.6 In addition you can start an e-petition using the Councils website. The Council can only act upon the petition when it is closed and cannot act upon on-going or 'rolling' petitions. In establishing an e-petition the Petition Organiser will be required to indicate the period of time the e-petition will be open for. The Council recommend that a period of at least 4 weeks is used.
- 3.7 It is important that the petition is identifiable, and you may wish to design and print your own petition. However, it is important to remember that people must understand what they are signing. Therefore a petition should include:
- (a) the name and contact details of the Petition Organiser (email and telephone numbers provided will not be published by the Council);
 - (b) a clear, concise statement covering the subject of the petition;
 - (c) a statement explaining what action the petitioners wish the Council to take; and
 - (d) the name, address and signature of the persons supporting the petition.

4. Who can sign a petition?

- 4.1 The Council will accept a petition if it is signed by people who live within the administrative boundaries of Braintree and who are recorded on the electoral register. Accordingly the full name and address must be provided by the signatory.
- 4.2 Any Member of the Council wishing to sign a petition should seek advice from the Governance Team before signing the petition.

5. Petition Thresholds

- 5.1 How the Council deal with a petition will largely be determined by how many signatures the petition contains and the subject matter.

(a) A Petition signed by between [30] and [999] people:

The Performance Management Scrutiny Committee will consider the petition and shall:

- i. determine the Petition in accordance with paragraph 7;
- ii. Refer the petition to a Chief Officer for determination; or
- iii. Refer the petition to a cabinet member for determination.

(b) Petitions signed by between [1000] and [1,999] people:

The petition will be considered at a meeting of Cabinet and determined in accordance with paragraph 7.

(c) Petitions signed by [2000] or more people:

The petition will be considered at a meeting of the Full Council and determined in accordance with paragraph 7.

(d) Petitions requesting a Chief Officer gives evidence

Any petition requiring a Chief Officer to give evidence at a public meeting of the Performance Management Scrutiny Committee must have at least [1000] signatures. The petition will be considered by the Chairman of the Performance Management Scrutiny Committee in the first instance and will determine whether the petition should be considered by the Performance Management Scrutiny Committee and the Chief Officer should be called to give evidence.

6. Petition Progression

- 6.1 All petitions will be acknowledged by the Council within 10 working days of receipt and the Petition Organiser will be kept informed throughout the Councils consideration of the petition and any action that will be taken.
- 6.2 The Council will then carry out a validation process, which will review the petition, the action the petition is seeking and verify the signatures to ensure that they meet the criteria set out in this Policy. The verification of the signatures will be based on the information provided within the petition and the Council will not seek validation of an individual's identification through alternative records. Only the verified signatures will count towards the thresholds set out above.

- 6.3 Petition submitted will be allocated to Monitoring Officer who will be responsible for the management of the progression of the petition in accordance with this Policy. The Monitoring Officer will be able to escalate the petition, if the subject of the petition is so significant that it would be appropriate for the issue to be considered by the next tier set out in paragraph 5.1.
- 6.4 If a petition is to be submitted to the Performance Management Scrutiny Committee, Cabinet or Council for consideration and debate, this will be done at the next available meeting.
- 6.5 The Petition Organiser will be invited to attend the relevant meeting and will be provided with 5 minutes at the commencement of the item to present the petition. Following which the Members of the relevant meeting will be given 30 minutes to debate the petition and the issues raised within it.
- 6.6 In considering the petition before the full Council, only a Cabinet Member or the relevant Committee Chairman will be permitted to move one of the following options:
- (a) To move a motion that no further action is required;
 - (b) To move a motion that the petition is referred to Cabinet, Council or another Committee; or
 - (c) To move a motion that some other action is taken in response to the petition, as set out in paragraph 7.1.
- 6.7 If there is no majority vote in favour of the motion, then one of the other motions stated above must be moved. For a petition before Council any other Member of Council will be permitted to move one of the other motions under this paragraph.
- 6.8 The Councils Standing Order as set out in the Constitution relating to the rules of debate and motions, are applicable to the debate and motions relating to a petition.
- 6.9 The Petition Organiser will receive written confirmation of the decision and a copy will be published on the Councils website.

7. The Councils Response

- 7.1 Having considered the petition in accordance with this Policy, the Council may take any of the following actions in response to the petition:
- (a) Take the action requested within the petition;
 - (b) Decline to take the action requested within the petition;
 - (c) Recommend that an enquiry is held into the issues raised within the petition;
 - (d) Undertake research into the issues raised within the petition;
 - (e) Carry out consultation into the issues raised within the petition; or
 - (f) Refer the petition to an external organisation for consideration;

(g) Hold a meeting with the Petition Organiser to reach a resolution.

7.2 A copy of the Councils response will be published on the Councils website.

8. Evidence from a Chief Officer

8.1 For petitions that request a Chief Officer gives evidence before the Performance Management Scrutiny Committee, the petition must relate to the Chief Officers role and cannot be about their personal circumstances or character.

8.2 The meeting at which the Chief Officer gives evidence will be held in public, and the Committee Members will be entitled to ask questions of the Chief Officer.

8.3 If appropriate, the Chief Officer will be entitled to invite other officers to attend in order to provide additional evidence.

8.4 After the meeting the Committee will submit a report to Cabinet setting out its findings and any recommendations it may wish to make in relation to the petition subject matter, in accordance with paragraph 7.1. The report will be considered at the next available meeting of Cabinet and a copy will be provided to the Petition Organiser.

9. Discounted Petitions

9.1 Some petitions cannot be considered under this Policy, and those listed below will be discounted by the Council:

(a) If a petition does not follow this Policy

(b) If the petition does not identify a Petition Organiser, the Council will normally contact the first signatory to the petition and ask them to agree to act as the Petition Organiser. If the first signatory is unable or unwilling to act as the Petition Organiser, then the petition will be discounted until such time as a Petition Organiser comes forward.

(c) if it is received within **six** months of another petition on the same matter. However, if two or more petitions on the same subject are received at a similar time the Petition Organisers may be contacted to determine if the petitions may be merged and considered together.

(d) those that the Monitoring Officer considers to be rude, frivolous, offensive, defamatory, scurrilous or vexatious;

(e) You can submit a petition as part of a formal consultation exercise. In this case it must be received before the date that the consultation closes or it may not be included as part of the Councils consideration of the consultation responses.

(f) petitions that relate to planning applications, planning policy or licensing matters, or where there is already an existing right of appeal or separate complaints process; or alternative arrangements in place;

- (g) petitions about issues for which this Council is not responsible for and cannot influence;
 - (h) Petitions commenced through external online resources and petition websites;
 - (i) petitions relating to any individual or the personal circumstances of individual Councillors or employees of the Council or matters that should properly be dealt with under the Council's complaints procedure; or
 - (j) A statutory petition such as a request for a referendum, which will be dealt with in accordance with the statutory provisions in place at that time.
- 9.2 If the Council decides that a petition is to be discounted the Petition Organiser will be informed and an explanation will be provided.
- 10. What you can do if you think your petition has not been dealt with in accordance with this policy?**
- 10.1 If the petition Organiser feels that the Council have not dealt with the petition in accordance with this Policy, they may request that the Chairman of the Performance Management Scrutiny Committee review the process that the Council has followed in responding to the petition.
- 10.2 The Petition Organiser should put their request in writing, listing the reasons for the request. The request must be made within 10 working days of receiving the Council's written response.
- 10.3 A request will not be accepted if it is considered vexatious, abusive or otherwise inappropriate.
- 10.4 The Petition Organiser will be informed in writing of the outcome of the review by the Chairman of the Performance Management Scrutiny Committee within 10 working days of the request.

**Agenda Item:** *[for Governance use]*

| | |
|---|--|
| Report to: | <i>Cabinet/Council/Committee or Cabinet Member for x (delete as appropriate)</i> |
| Report Title: | <i>Insert short title summarising the purpose and subject of the report, eg 'to agree a new contract for waste disposal services in Braintree'</i> |
| Date: | <i>Inset date of meeting or date when report finalised in the case of a Cabinet Member or Officer Decision</i> |
| For: | <i>Decision / Recommendation (delete as appropriate)</i> |
| Key Decision: | <i>Yes / No (delete as appropriate)</i> |
| Decision Planner Reference Number: | <i>(if applicable)</i> |
| Report Presented by: | <i>Insert the name of the Cabinet Member or Officer presenting the report</i> |
| Report Author: | <i>Insert the name of the Officer responsible for the report</i> |
| Enquiries to: | <i>Insert name and contact details of the relevant officers</i> |

All words in italics have been included to help in the drafting of the report, but they must be removed before the report is finalised and published.

All paragraphs must be numbered.

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph xx of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

[Governance to be consulted on the relevant category to be used]

[Delete this box, if the report does not contain a confidential appendix]

1. Purpose of the Report

- 1.1 *Insert a brief description, usually 1-2 sentences, outlining what the report proposes and the context for the report, i.e the reader should be able to understand what the headline/key issues are.*

2. Recommendations

- 2.1 *List the recommendations you are making and the decisions you are seeking. This should clearly reference any recommendation option that is covered in further detail in section 4.*

2.2 *Cover all matters for which a decision is required including expenditure implications.*

3. Summary of Issues

Outline the issue that is being considered. Set out BDC's current position and any relevant national context.

Outline any consultations planned as part of the proposals, if consultation has already been carried out, set out the details of that consultation and BDC's responses to any issues raised.

Outline any procurement proposals

The recommendations set out in this report will help the Council to deliver the following Corporate Objectives: *(Delete as appropriate)*

- A sustainable environment and a great place to live, work and play;
- A well connected and growing district with high quality homes and infrastructure;
- A prosperous district that attracts business growth and provides high quality employment opportunities;
- Residents live well in healthy and resilient communities where residents feel supported;
- A high performing organisation that delivers excellent and value for money services;
- Delivering better outcomes for residents and businesses and reducing costs to taxpayers.

Provide an explanation as to why.

4. Options

Identify the options being considered – there must always be more than one option. The preferred option should be clearly identified. A 'do nothing' option should almost always be an option.

Explain the alternative options and the pros and cons, risks and issues associated with each.

State why a particular option is preferred and what risks and opportunities are and how risks will be mitigated.

5. Next Steps

Include details of where the report will go next, If there are no further steps required for a decision, these section can be removed.

6. Financial Implications

This is a Mandatory requirement for all decisions.

Set out the budget and source of funding, any investment required that is not within budget, savings, costs, staffing and other resource implications.

This section should be completed by the s.151 Officer or an officer authorised on their behalf

7. Legal Implications

This is a Mandatory requirement for all decisions.

Set out any legal implications or statutory provisions relevant to the decision.

This section should be completed by the Monitoring Officer or an officer authorised on their behalf.

8. Other Implications

This section should contain any other implications that are relevant to the decision being sought. This would include any climate control issues, Safeguarding, Customer impacts, and risks not identified elsewhere in the report.

9. Equality and Diversity Implications

9.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

9.3 The Equality Impact Assessment indicates that the proposals in this report will/will not have a disproportionately adverse impact on any people with a particular characteristic. *(Describe the specific equality and diversity implications of the proposal, any adverse findings and the proposed mitigation).*

10. List of Appendices

Only include if relevant. No not embed files.

Appendices are documents which form part of the report and which the decision maker needs to see in order to consider all the issues. This would include any document which you are asking to be approved. It would also include a summary of consultation responses or any other document which is not fully summarised in the report itself.

11. Background Papers

The Council is required by law to list all background papers in every formal decision. Background papers merely need to be listed in case anyone wants to obtain a copy, they do not get published and Governance do not need to receive them.

The list must include all documents which have not already been published but which were relied upon by the author when preparing the report. This might include consultation reports, consultation letters, local or national schemes, guidance or policies.

| | |
|--|--------------------|
| <p>I approve the above recommendations for the reasons set out in this report.</p> <p>Councillor [insert name], Cabinet Member for [insert portfolio title]</p> <p>Signed:</p> <p>or</p> <p>Insert name and title of the Corporate Director</p> <p>Signed:</p> | <p>Date</p> |
|--|--------------------|

(remove this box if the report is going to Cabinet or Council)

In Consultation with:

| | |
|--|--------------------|
| <p>Councillor [insert name], Cabinet Member for [insert portfolio title]</p> <p>or</p> <p>Insert name and title of the Corporate Director</p> | <p>Date</p> |
| <p>Corporate Director (Finance)(S.151 Officer)</p> <p>Chris Fleetham</p> | |

| | |
|---|--|
| | |
| Head of Governance and Monitoring Officer Kim Cole | |

(remove this box before publication of the report)

CONFIDENTIAL APPENDIX: {insert report title}**Agenda Item:** *[for Governance use]*

| | |
|---|--|
| Report to: | <i>Cabinet/Council/Committee or Cabinet Member for x (delete as appropriate)</i> |
| Report Title: | <i>Insert short title summarising the purpose and subject of the report, eg 'to agree a new contract for waste disposal services in Braintree'</i> |
| Date: | <i>Inset date of meeting or date when report finalised in the case of a Cabinet Member or Officer Decision</i> |
| For: | Decision / Recommendation <i>(delete as appropriate)</i> |
| Key Decision: | Yes / No <i>(delete as appropriate)</i> |
| Decision Planner Reference Number: | <i>(if applicable)</i> |
| Report Presented by: | <i>Insert the name of the Cabinet Member or Officer presenting the report</i> |
| Report Author: | <i>Insert the name of the Officer responsible for the report</i> |
| Enquiries to: | <i>Insert name and contact details of the relevant officers</i> |

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph **xx** of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

[Governance to be consulted on the relevant category to be used]

[Delete this box, if the report does not contain a confidential appendix]

1. *[set out the confidential information]*

Request for Sealing

A: TO BE COMPLETED BY THE OFFICER REQUESTING THE SEALING

Submitted by:

Date of request:

Date to be sealed:

Date authorisation given for Sealing:

Authority for sealing:

i.e. Name of Officer, Cabinet Report, Council Report and relevant minutes etc

Copy of the authority attached: Yes/No

Type of Document to be sealed:

Document Title/Property:

Parties: (1)
(2)
(3)
(4)

Number of copies to be sealed:

Do plans need to be sealed? Yes/No

Please flag all pages that need to be sealed

B. TO BE COMPLETED BY THE ATTESTED OFFICER

Your sealing was completed:

On:

By:

Unique reference number:



**NOTICE OF INTENTION
TO CONDUCT BUSINESS IN PRIVATE**

COUNCIL – [insert date]

The Local Government Act 1972

Notice is hereby given that the Council intend to consider the following items in private session of the above meeting of Council:

- [insert the title of the report]

It is proposed that Council will resolve under the section 100A of the local Government Act 1972 to exclude the public from the meeting for this item of business as it involves the likely disclosure of Confidential or Exempt Information as defined in Section 100A and Part 1 of Schedule 12A to the Local Government Act 1972 respectively.

Date of Notice: [insert date]



**NOTICE OF INTENTION
TO CONDUCT BUSINESS IN PRIVATE**

CABINET – [insert date]

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Notice is hereby given in accordance with Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that the following items are likely to be considered in private session of the above meeting of Cabinet:

- [insert the title of the report]

It is proposed that Cabinet will resolve under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to exclude the public from the meeting for this item of business as it involves the likely disclosure of Confidential or Exempt Information as defined in Section 100A and Part 1 of Schedule 12A to the Local Government Act 1972 respectively.

Following the issuing of its Notice under Regulation 5(1) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, made at least 28 days before the meeting, the Council has received no representations requesting that the item be considered in public.

Date of Notice: [insert date]