

# **FOLKESTONE AND HYTHE DISTRICT COUNCIL** **CONSTITUTION**

## **PART 4 – COUNCIL FUNCTIONS, RULES AND PROCEDURES**

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## **PART 4 – COUNCIL FUNCTIONS, RULES AND PROCEDURES**

### **PART 4.1 - COUNCIL FUNCTIONS**

#### **1. FUNCTIONS OF THE COUNCIL**

- 1.1** The Council has responsibility for all the authority's non-executive functions. Functions, which have not been delegated, remain the sole responsibility of the whole or full Council. These are set out in Article 4:
- a) Changing governance arrangements and adopting, and changing, the Constitution;
  - b) Approving or adopting the Policy Framework, the Budget and any application, to the Secretary of State, in respect of any housing land transfer;
  - c) Subject to the urgency procedure contained in the Cabinet Access to Information Procedure Rules, making decisions about the discharge of a Cabinet function, where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - d) Electing the Leader;
  - e) Electing the Chairman and Vice-chairman of the Council;
  - f) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
  - g) Appointing representatives to outside bodies, unless the appointment is a Cabinet function or has been delegated by the Council;
  - h) Agreeing recommendations arising from scrutiny reviews of non-Cabinet functions;
  - i) Considering recommendations, arising from scrutiny reviews, not accepted by the Cabinet and referred by the chairman of the relevant committee;
  - j) Adopting a Members' Allowances' Scheme;
  - k) Changing the name of the District or of a parish;
  - l) Conferring the title of Honorary Alderman or admitting to honorary freedom;
  - m) Petitioning for a charter to confer borough status;
  - n) Confirming the appointment or dismissal of the Head of Paid Service;

- o) Promoting or opposing the making of local legislation or personal bills;
- p) All local choice functions which the Council decides should be undertaken by itself, rather than the Cabinet, and which have not been delegated by the Council;
- q) Entering into, or confirming existing, or extending joint arrangements with other local authorities, under the provisions of the Local Government Act 1972 and the Local Government and Public Involvement in Health Act 2007;
- r) Making any decisions in respect of non-Cabinet functions, which have not been expressly delegated elsewhere;
- s) Adopting the members' Code of Conduct;
- t) Subject to the powers of the Head of Paid Service to make interim designations of the Monitoring Officer and Section 151 Officer; confirming the designation of the Monitoring Officer, Section 151 Officer, Electoral Registration Officer and Returning Officer;
- u) Making, amending, revoking and re-enacting byelaws and promoting or opposing the making of local legislation or personal Bills;
- v) In relation to non-executive functions, deciding whether or not to accept the delegation of a function by another local authority;
- w) In relation to non-executive functions, the function of authorising a person to exercise a function to which Section 70 of the Deregulation and Contracting Out Act 1994 applies, and revoking any such authorisation;
- x) Passing of a resolution not to issue casino premises licences, under the Gambling Act 2005, and any revocation of such resolution;
- y) Functions relating to community governance, unless delegated to officers;
- z) Approving or revising the Petition Scheme;
- aa) Approving the Council's Pay Policy Statement, under Section 39 of the Localism Act 2011.

## **1.2 The Policy Framework**

- 1.2.1** Approving or adopting the Policy Framework is a function of the whole Council.

**1.2.2** The Policy Framework is the following set of plans and strategies that the Council must approve by law, or has decided should be reserved to the full Council for approval:

- The Sustainable Community Strategy;
- Crime and Disorder Reduction Strategy;
- Drugs and Alcohol Strategy;
- Local Transport Plan;
- Core documents of the Local Plan;
- Community Safety Partnership Plan;
- Statement of Licensing Policy, under the Licensing Act 2003 (for Council decision, acting as the Licensing Authority);
- Statement of Gambling Licensing Policy, under the Gambling Act 2005 (for Council decision, acting as the Licensing Authority);
- The Medium Term Financial Strategy;
- Any plan or strategy for the control of the Council's borrowing, investments or capital expenditure;
- Corporate Plan;
- The Housing Investment Programme;
- Such other plans and strategies that the Council decides should be reserved to full Council.

**1.2.3** Changing or revoking any of these is also a function of the full Council, unless the change just gives effect to a ministerial direction. The Cabinet cannot take a decision contrary to the Policy Framework, except under any urgency powers contained in this Constitution. The full Council can only make such decisions.

**1.2.4** Cabinet shall submit an annual report to Council, detailing the policies that have been approved in the previous year, which are not those mentioned above and in Article 4, and Council shall have the option of including any of the policies in the Policy Framework.

### **1.3 The Budget**

Approval or adoption of the Budget is a full Council function. The executive cannot take a decision which is contrary to, or not wholly in accordance with the Budget. The full Council can only make such decisions.

## **PART 4.2 - COUNCIL RULES OF PROCEDURE**

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

#### **1.1 Timing and business**

**1.1.1** In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place in March, April or May.

**1.1.2** The Annual Meeting will:

- a) Elect a person to preside if the Chairman of the Council is not present;
- b) Elect the Chairman of the Council;
- c) Elect the Vice-Chairman of the Council;
- d) Approve the minutes of the last Annual Meeting;
- e) Receive any announcements from the Chairman and/or Head of Paid Service;
- f) Elect the Leader (only at post-election Annual Meeting);
- g) Appoint at least one overview and scrutiny committee, a committee to carry out the statutory licensing committee functions and such other committees, as the Council considers appropriate, to deal with matters which are neither reserved to the Council nor executive functions;
- h) Agree a scheme of delegation for non-executive functions;
- i) Approve a programme of ordinary meetings of the Council, for the year, and a timetable of meetings of committees and, if appropriate, sub-committees, for the year, including, for the purposes of committee and sub-committee meeting dates, for the whole of May in which the next Annual Meeting falls; and
- j) Consider any business set out in the notice convening the meeting.

#### **1.2 Selection of councillors on committees and outside bodies**

At the Annual Meeting, the Council will, subject to rule 1.1 (g) above:

- a) Decide which committees to establish for the municipal year;
- b) Decide the size and terms of reference for those committees;
- c) Decide the allocation of seats to political groups, in accordance with the political balance rules;

- d) Receive nominations of councillors to serve on each committee and outside body; and
- e) Appoint to those committees and outside bodies, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

### **1.3 Committee chairmen**

**1.3.1** The chairmen of committees (other than the Chairman of the Overview and Scrutiny Committee) will be elected by the Council at the Annual Meeting or at the first meeting following a vacancy. The vice-chairmen of committees (other than the Vice-Chairman of the Overview and Scrutiny Committee) will also be elected by the Council, in the same way.

**1.3.2** The relevant committee may remove the chairman or vice-chairman of a committee or sub-committee, at any time, by resolution of the committee or sub-committee, on notice of motion moved under Rule 16 of the Committee Procedure Rules in Part 5 of this Constitution.

## **2. ORDINARY MEETINGS**

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

- a) Elect a person to preside, if the Chairman and Vice Chairman are not present;
- b) Elect a Chairman and/or Vice-chairman if either of those offices have become vacant;
- c) Deal with any business considered by the Chairman to be urgent;
- d) Approve the minutes of the last meeting;
- e) Receive any declarations of interest from councillors;
- f) Receive any announcements from the Chairman, Leader, members of the Cabinet or the Head of Paid Service;
- g) Receive questions from, and provide answers to, the public, in relation to matters which, in the opinion of the person presiding at the meeting, are relevant to the business of the meeting;
- h) Receive petitions;
- i) Deal with any relevant business held over from the last Council meeting;

- j) Consider opposition business submitted under Rule 12;
- k) Receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- l) Receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
- m) Consider motions;
- n) Consider questions from councillors and;
- o) Consider any other business specified in the summons to the meeting, including consideration of, and debate on, proposals from the Cabinet, in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committee.

**2.2** The order of items (a), (b), (c), (d) and (e) of paragraph 2.1 shall not be varied.

**2.3** The order of other business may be varied:

- a) At the discretion of the Chairman, prior to the meeting, following consultation with the Leader;
- b) Or at the meeting, by a resolution passed on a motion (which need not be in writing) duly moved and seconded, and put without discussion.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling extraordinary meetings**

**3.1.1** Those listed below may request the Head of Paid Service to call Council meetings, in addition to ordinary meetings:

- a) The Council by resolution;
- b) The Chairman of the Council;
- c) The Monitoring Officer;
- d) The Chief Finance Officer; and
- e) Any five members of the Council if they have signed a requisition, presented to the Chairman of the Council, and s/he has refused to call a meeting, or has failed to call a meeting, within seven days of the presentation of the requisition.

**3.1.2** The Head of Paid Service may also call an extraordinary Council meeting.

### **3.2 Business**

The only business to be transacted at an extraordinary meeting shall be that stated in the summons. The Chairman may add urgent business to the agenda for the meeting, if s/he considers it appropriate, and will give reasons for so doing.

### **3.3 Questions**

Questions shall not be permitted at extraordinary meetings and Rule 10 shall not apply.

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

The time and place of meetings will be determined by the Head of Paid Service, in consultation with the Chairman, and notified in the summons.

## **5. NOTICE OF AND SUMMONS TO MEETINGS**

The Head of Paid Service will give notice, to the public, of the time and place of any meeting, in accordance with the Non-Executive Access to Information Rules. At least five clear working days before a meeting, the Head of Paid Service will send a summons, signed by him or her, by post, to every councillor, or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **6. CHAIRMAN OF MEETING**

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

## **7. QUORUM**

The quorum of a meeting will be one quarter of the whole number of councillors. During any meeting, if the Chairman counts the number of councillors present and s/he believes that there is not a quorum present, s/he will declare that a quorum count will take place. If, after a period of five minutes, there is not a quorum present, then the Chairman will announce that the meeting has ended. The remaining business will be considered at a time and date fixed by the Chairman. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. QUESTIONS BY THE PUBLIC**

### **8.1 General**

Members of the public may ask questions of the Leader, and other members of the Cabinet, at ordinary meetings of the Council.



## **8.2 Order of questions**

Questions will be asked in the order in which they were received, except that the Chairman may group together similar questions.

## **8.3 Notice of questions**

A question may only be asked if notice has been given, by delivering it in writing, or by electronic mail, to the Head of Paid Service, no later than ten clear working days before the day of the meeting. Each question must give the name and address of the questioner and must specify by name, or role, the councillor to whom it is to be put. The questioner may also specify the meeting at which they wish the question to be asked.

## **8.4 Number of questions**

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

## **8.5 Scope of questions**

**8.5.1** The Monitoring Officer may reject a question if it:

- a) Is not about a matter for which the Council has a responsibility or which affects the district;
- b) Is defamatory, frivolous or offensive;
- c) Is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- d) Requires the disclosure of confidential or exempt information

**8.5.2** The Monitoring Officer will inform the questioner of the rejection of their question within three clear working days, giving reasons. Where a question requires the disclosure of exempt information, the relevant Council meeting will decide whether to agree disclosure of such information.

## **8.6 Record of questions**

**8.6.1** The Head of Paid Service will make each question open to public inspection, by putting it on a searchable section of the Council's website, and will, as soon as is reasonably practicable, send a copy of the question to the councillor to whom it is to be put. Rejected questions will include reasons for rejection.

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

## **8.7 Asking the question at the meeting**

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

## **8.8 Supplementary question**

A questioner who has put a question in person may also put one supplementary question, without notice, to the councillor who has replied to his, or her, original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 8.5 above.

## **8.9 Written answers**

Any question, which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the councillor (or an appropriate substitute member) to whom it was to be put, will be dealt with, by a written answer, within ten clear working days. All written answers will be circulated to councillors and published on the Council website.

## **8.10 Reference of question to the Cabinet or a committee**

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

## **8.11 Time limit**

Public question time, under these procedure rules, shall be limited to 30 minutes.

# **9. LEADER'S ANNOUNCEMENTS**

## **9.1 Oral report of the Leader**

The Leader, or in his/her absence the Deputy Leader, shall give an oral report, of the business of the Cabinet, to each ordinary meeting of the Council. The Leader shall have up to ten minutes to make this report and any statements, which he/she wishes, on any topic or subject that he/she considers should be drawn to the attention of the Council.

## **9.2 Response by largest opposition group**

The Leader of the largest opposition group (or a person nominated, by the Leader of the largest opposition group, to speak at the meeting) shall be allowed to respond. If there are two opposition groups of the same size, the right of the first response shall alternate.

## **9.3 Response by other opposition groups**

The Leader of any other opposition group (or a person nominated, by the Leader of that opposition group, to speak at the meeting) shall be allowed to respond.

## **9.4 The Leader's right of reply**

Following the responses from the opposition groups, the Leader shall be allowed a right of reply.

## **9.5 Time limits**

The Leader's oral report and right of reply shall be limited to 10 and 5 minutes, respectively. The opposition groups' responses shall be limited to 5 minutes each.

## **10. QUESTIONS FROM COUNCILLORS**

### **10.1 Without notice, on reports of the Cabinet or committees**

A councillor may ask the Leader or relevant Cabinet councillor, or chairman of a committee, any question, without notice, upon an item of the report of the Cabinet, or a committee, when that item is being received or under consideration by the Council.

### **10.2 Questions on notice at full Council**

Subject to Rule 10.3, a Councillor may ask

- a) The Chairman;
- b) A member of the Cabinet;
- c) The chairman of any committee or sub-committee;

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

### **10.3 Notice of questions**

A councillor may only ask a question under rule 10.2 if:

- a) they have given notice, in writing, of the question to the Head of Paid Service, by 10.00am, on the third working day before the meeting (in

this rule, the date of the giving of the question and the date of the meeting will be used in the calculation); or

- b) the question relates to urgent matters, they have the consent of the Chairman of the Council and the content of the question is given to the Head of Paid Service, by noon, on the day of the meeting.

#### **10.4 Order of questions**

Questions will be asked in the order in which they were received.

#### **10.5 Response**

An answer may be provided by the councillor to whom it was put, or if appropriate, another relevant councillor, and will take the form of:

- a) A direct oral answer;
- b) Where the desired information is in a publication of the Council, or other published work, a reference to that publication; or
- c) Where the reply cannot conveniently be given orally, a written answer, circulated later, to the questioner.

#### **10.6 Supplementary question**

A councillor, asking a question under Rule 10.2, may ask one supplementary question, without notice, of the councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

#### **10.7 Time limit**

Councillors' questions to the Council shall be limited to 45 minutes.

### **11. PETITIONS**

**11.1** Petitions, that the petitioner asks to be presented to full Council, shall be dealt with in accordance with the Petition Scheme in Part 4.5.

**11.2** The Chairman, on the advice of the Head of Paid Service or the Monitoring Officer, shall, where the Council has received more petitions, under the Petition Scheme, than can be considered at one meeting, have the power to determine at which meeting of the Council each petition shall be considered.

### **12. OPPOSITION BUSINESS**

**12.1** One item of business, in each ordinary meeting, may be raised by an opposition party, in accordance with this rule, provided that it has been received in writing, by the Head of Paid Service, no later than ten clear working days prior to the Council meeting, stating the nature of the

business to be raised. Where there are two opposition groups of the same size, the groups will have the right to raise one item of business, in turn, at alternate meetings. Where there are opposition groups of differing sizes, the number of items that each group can raise, in any municipal year, shall be determined by the ratio each bears to the others in terms of numerical size. The largest opposition group shall have the first opportunity, at each ordinary meeting, to raise an item of business, unless the number of items it has been entitled to raise has been reached; the second largest opposition party will have the second choice and so on.

**12.2** The Monitoring Officer can reject opposition business which:

- a) Is not about a matter for which the local authority has a responsibility, or which affects the district;
- b) Is defamatory, frivolous or offensive;
- c) Requires the disclosure of confidential or exempt information.

Should the Monitoring Officer reject opposition business, the Leader of the opposition party will receive a written response advising of this, including the reasons for the rejection.

**12.3** At the conclusion of the debate, or at the expiry of the time limit mentioned below, whichever is the earlier, a vote shall be taken on the opposition business, in accordance with rule 12.4. Before any vote is taken, the Leader of the opposition party, whose item it is, shall have the right of reply.

**12.4** The vote on the opposition business shall:

- a) Note the issue raised and take no further action;
- b) Refer the issue to the Cabinet or the Overview and Scrutiny Committee, as the case may be, for their observations, before deciding whether to make a decision on the issue;
- c) Agree to examine the matter, as part of a future scrutiny programme;
- d) Adopt the issue raised by opposition business, provided that the decision, so made, is within the Policy Framework and Budget, and is within the power of the Council to make the decision.

**12.5** Opposition business shall not be raised at the Annual Meeting or at an extraordinary meeting of the Council.

**12.6** Time-limit debates on opposition business shall be limited to 30 minutes.

### **13. MOTIONS ON NOTICE**

**13.1** Except for motions which can be moved without notice, under Rule 14, written notice of every motion, signed by the councillor giving the notice, must be delivered to the Head of Paid Service not later than 10 clear

working days before the date of the meeting. The Head of Paid Service will make each motion open to public inspection, by putting it on a searchable section of the Council's website. Amendments to motions may also be submitted to the Head of Paid Service, and where received before the deadline for printing of the summons, will be included on the summons for the meeting. Those received after the print deadline, for the meeting, will be circulated to councillors, as soon as practicable, and will, in any event, be available at the meeting.

### **13.2 Motion set out in agenda**

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

### **13.3 Scope**

Motions must be about matters for which the Council has a responsibility, or which affect the district. The Monitoring Officer will adjudicate on whether the scope of the motion complies with this rule.

### **13.4 Time limit**

Debates on motions, moved in accordance with this procedure rule, shall be limited to 60 minutes.

## **14. MOTIONS WITHOUT NOTICE**

### **14.1** The following motions may be moved without notice:

- a) To appoint a chairman of the meeting at which the motion is moved;
- b) In relation to the accuracy of the minutes;
- c) To change the order of business in the agenda;
- d) To refer something to an appropriate body or individual;
- e) To appoint a committee or councillor, arising from an item on the summons for the meeting;
- f) To receive reports, or adoption of recommendations, of committees, or officers, and any resolutions following from them;
- g) To withdraw a motion;
- h) To amend a motion;
- i) Subject to 14.2 below, to proceed to the next business;

- j) Subject to 14.2. below, that the question be now put;
- k) To adjourn a debate;
- l) To adjourn a meeting;
- m) To suspend a particular Council procedure rule;
- n) To exclude the public and press, in accordance with the Non-Executive Access to Information Procedure Rules;
- o) Not to permit the recording and/or broadcast of the proceedings of the meeting;
- p) To not hear further a councillor named under Rule 21.3 or to exclude them from the meeting under Rule 21.4;
- q) To resolve to request the Head of Paid Service to call an extraordinary meeting of Council; and
- r) To give the consent of the Council, where its consent is required by this Constitution.

**14.2** The Chairman may refuse to accept a motion under i) or j) above if, in his/her opinion, the matter under discussion has not been discussed sufficiently. In doing so, s/he must give reasons for the rejection.

## **15. RULES OF DEBATE**

### **15.1 Moving a motion**

**15.1.1** The mover of a motion may make a speech in support of his, or her, motion when moving it. The motion must then be seconded.

#### **15.1.2 Councillor's absence**

If a councillor, who has given notice of a motion, is not at the meeting at which the motion is to be moved, the motion falls.

### **15.2 Right to require motion in writing**

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

### **15.3 Secunder's speech**

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

#### **15.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation, or point of order. No speech may exceed 5 minutes without the consent of the Chairman.

#### **15.5 When a councillor may speak again**

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

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

#### **15.6 Amendments to motions**

**15.6.1** An amendment to a motion must be relevant to the motion and either be:

- a) To refer the matter to an appropriate body, or individual, for consideration or reconsideration;
- b) To leave out words;
- c) To leave out words and insert or add others; or
- d) To insert or add words.

as long as the effect of b) to d) is not to negate the motion.

**15.6.2** Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment, under discussion, has been disposed of.

**15.6.3** If an amendment is not carried, other amendments to the original motion may be moved.

**15.6.4** If an amendment is carried, the motion, as amended, takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.



**15.6.5** After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, the amended motion will be debated before it is put to the vote.

## **15.7 Alteration of motion**

**15.7.1** A councillor may alter a motion, of which s/he has given notice, with the consent of the meeting. The meeting's consent will be signified without discussion.

**15.7.2** A councillor may alter a motion, which s/he has moved, without notice, with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

**15.7.3** Only alterations, which could be made as an amendment, may be made.

## **15.8 Withdrawal of motion**

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

## **15.9 Right of reply**

**15.9.1** The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

**15.9.2** If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

**15.9.3** The mover of the amendment has no right of reply to the debate on his or her amendment.

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

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

- a) To withdraw a motion;
- b) To amend a motion;
- c) To proceed to the next business;
- d) That the question be now put;
- e) To adjourn a debate;
- f) To adjourn a meeting;

- g) To exclude the public and press, in accordance with the Access to Information Rules; and
- h) To not hear further a councillor named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

## **15.11 Closure motions**

**15.11.1** A councillor may move, without comment, the following motions at the end of a speech of another councillor:

- a) To proceed to the next business;
- b) That the question be now put;
- c) To adjourn a debate; or
- d) To adjourn a meeting.

**15.11.2** If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the motion to proceed to next business is carried during the discussion of an item, that item of business falls.

**15.11.3** If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote. If it is passed, s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.

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

## **15.12 Point of order**

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

## **15.13 Personal explanation**

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

## **15.14 Council debates ‘in committee’**

**15.14.1** Where the Council wishes to conduct a debate as if it were a committee, it must first approve a motion suspending all or some of rules 15.3 (the prerogative of a councillor seconding a motion to reserve their speech to later in the debate); 15.4 (Content and length of speeches); 15.5 (When a councillor may speak again) and 21.1 (Councillors standing to speak).

**15.14.2** Any motion moved under rule 15.14.1 must comply with rule 25.1.

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

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

A motion or amendment to rescind a decision, made at a meeting of Council within the past six months, cannot be moved unless the notice of motion is signed by at least nine councillors, or is moved in pursuance of a report, or a recommendation, of the Cabinet, a committee or a statutory officer.

### **16.2 Motion similar to one previously rejected**

A motion or amendment, in similar terms to one that has been rejected at a meeting of Council in the past six months, cannot be moved unless the notice of motion or amendment is signed by at least nine councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

**16.3** The Monitoring Officer shall determine whether a motion or amendment is similar to one that has been rejected at a meeting of Council in the past six months, and, unless falling within the exceptions in rule 16.1 above, shall disallow a similar motion or amendment and will advise the mover of the motion, of his/her decision, in writing.

## **17. VOTING**

### **17.1 Majority**

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

### **17.2 Chairman’s casting vote**

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

### **17.3 Show of hands/Automated system**

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

### **17.4 Recorded vote at meetings to set the budget or council tax**

A recorded vote will be taken, for all meetings of Council, to set the budget or council tax. Immediately after any such meeting, there will be recorded, in the minutes of the proceedings of that meeting, the names of the councillors who cast a vote 'for' the decision, 'against' the decision or who abstained from voting. The recorded votes will also be noted on any amendments.

### **17.5 Recorded vote**

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

### **17.6 Right to require individual vote to be recorded**

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

### **17.7 Voting on appointments**

**17.7.1** If there are more than two people nominated for any position to be filled (and this rule shall include the election of the Chairman of the Council, the Vice-Chairman of the Council and the Leader) and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

**17.7.2** The person nominated for the position may speak and vote on the matter, notwithstanding his or her candidature.

## **18. MINUTES**

### **18.1 Signing the minutes**

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

## **18.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

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

## **18.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them. They will be published on the Council website.

## **19. RECORD OF ATTENDANCE**

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

## **20. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules, in Part 4.3 of this Constitution, or Rule 23 (Disturbance by Public).

## **21. COUNCILLORS' CONDUCT**

### **21.1 Standing to speak**

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

### **21.2 Chairman standing**

When the Chairman stands during a debate, or otherwise signifies that councillors should stop speaking, any councillor speaking at the time must stop and sit down. The meeting must be silent.

### **21.3 Councillor not to be heard further**

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

#### **21.4 Councillor to leave the meeting**

If the councillor continues to behave improperly after such a motion is carried, the Chairman may move that either the councillor leaves the room, in which the meeting is being held, or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### **21.5 General disturbance**

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

### **22. WITHDRAWAL FROM THE MEETING**

**22.1** A councillor or co-opted member with a Disclosable Pecuniary Interest in a matter to be considered, or being considered, at a meeting must withdraw from the meeting room unless he/she has been granted a dispensation by the Audit and Governance Committee or the Monitoring Officer (where authorised) to speak only, or to speak and vote on the matter.

**22.2** A councillor or co-opted member with an Other Significant Interest in a matter to be considered, or being considered, at a meeting must:

- a) if he/she attends the meeting and, subject to sub-paragraph b) below, be in the place reserved for public in the meeting room;
- b) where public are allowed to make representations, answer questions or give evidence relating to the business, withdraw to the place in the meeting room reserved for the public, after having made representations, answered questions or given evidence

unless, in either case, he/she has been granted a dispensation by the Audit and Governance Committee or the Monitoring Officer (where authorised) to speak only, or to speak and vote on the matter.

### **23. DISTURBANCE BY PUBLIC**

#### **23.1 Removal of member of the public**

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

#### **23.2 Clearance of part of meeting room or adjournment**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared, or may adjourn the meeting for as long as he deems necessary.

## **24. RECORDING/BROADCAST OF THE MEETING**

**24.1** While a meeting is open to the public, any person is permitted to report on the meeting. For these purposes, report means filming, photographing or making audio recordings of proceedings at the meeting; using any other means for enabling persons, not present, to see or hear proceedings at the meeting, as it takes place, or later; or reporting or providing commentary on proceedings at the meeting, in writing, or orally, outside or after the meeting.

**24.2** Reasonable facilities will be provided to any person who wishes to report on a meeting, subject to the following conditions:-

- a) Prior notification, to the Head of Democratic Services and Law, on the intention to report on a meeting.
- b) Recordings being made in an overt manner that would not disrupt the good order of the meeting. Disruptive behaviour could be any action or activity which disrupts the conduct of meetings or impedes other members of the public from being able to see, hear, or record the proceedings. Examples of disruptive behaviour include, but are not limited to:
  - Moving to areas outside those designated for the public without the consent of the Chairman;
  - Oral commentary during a meeting;
  - Excessive noise in recording, or setting up, or re-siting equipment during the debate/discussion;
  - Intrusive lighting and use of flash photography;
  - Asking for people to repeat statements for the purposes of recording.
- c) Attendees being advised, by the Chairman, at the start of the meeting, that it is to be recorded, in order to receive objections from those not wishing to be recorded.
- d) Removing any recording equipment from the meeting room prior to any part of the meeting where the public is excluded.
- e) The Chairman's decision in relation to disruptive behaviour shall be final.

**24.3** These rights are subject to the Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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

### **25.1 Suspension**

All of these Council Rules of Procedure, except Rule 1 (Annual Meeting); 5 (Notice and summons to a meeting); 15 (Rules of debate; other than rules 15.3 – the obligation of a councillor seconding a motion to reserve their speech to later in the debate; 15.4 – content and length of speeches; and 15.5 – When a councillor may speak again); 16.2 (Motions similar to one previously rejected); 17 (Voting); 20 (Exclusion of the public); 22 (Withdrawal from the meeting); and this rule, may be suspended by motion on notice, or without notice, if at least one half of the whole number of councillors, of the Council, are present. Suspension can only be for the duration of the meeting.

### **25.2 Amendment**

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



## **PART 4.3 – NON-EXECUTIVE ACCESS TO INFORMATION PROCEDURE RULES**

### **1. ADDITIONAL RIGHTS TO INFORMATION**

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

### **2. RIGHTS TO ATTEND MEETINGS**

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

### **3. RIGHTS TO REPORT MEETINGS**

**3.1** While a meeting is open to the public, any person is permitted to report on the meeting. For these purposes, report means filming, photographing or making audio recordings of proceedings at the meeting; using any other means for enabling persons, not present, to see or hear proceedings at the meeting, as it takes place, or later; or reporting, or providing commentary on proceedings, at the meeting, orally, or in writing.

**3.2** These rights are subject to the Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **4. NOTICE OF MEETINGS**

The Council will give at least 5 clear days notice of any meeting, by posting details of the meeting at the Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY and on the Council's website.

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

**5.1** The Council will make copies of the agenda and reports, which are open to the public, available for inspection at the Civic Centre and on the Council's website, at least 5 clear days before the meeting.

**5.2** Where the meeting is convened at shorter notice than set out in Rule 4 (notice of meetings), copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

**5.3** If an item is added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons or agenda has been sent out, the Head of Paid Service shall make each such report available to the public, as soon as the report is completed and sent to councillors.

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

The Council will supply:

a) Copies of any agenda and reports, which are open to public inspection;

- b) Copies of any further statements, or particulars, necessary to indicate the nature of the items on the agenda; and
- c) Where the Head of Paid Service considers it appropriate, copies of any other documents, supplied to councillors, in connection with an item;

to any person, on payment of a charge for postage and any other costs, including copying and administration costs. All relevant documentation will be available from the Council's website, free of charge.

## **7. ACCESS TO DOCUMENTS AFTER MEETINGS**

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

- a) The minutes of the meeting, 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.

## **8. BACKGROUND PAPERS**

### **8.1 Background papers**

The chief officer, responsible for the report, will set out in every report a list of those documents (called background papers) relating to the subject matter of the report, which in his/her opinion:

- 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 will not include, in such a list, published works or those which disclose exempt or confidential information (as defined in Rule 10).

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

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

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

Article 3 of this Constitution, in conjunction with these rules and the Executive Access to Information Rules, is the written summary of the public's rights to attend meetings and to inspect and copy documents. These documents will be kept, and be available, to the public at the Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY, and on the Council's website.

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

### **10.1 Confidential information – requirement to exclude the public**

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

### **10.2 Meaning of confidential information**

Confidential information means information given to the Council, by a Government department, on terms which forbid its public disclosure or information which cannot be publicly disclosed because of a Court Order.

### **10.3 Exempt information – discretion to exclude the 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 of the Human Rights Act 1998.

### **10.4 Meaning of exempt information**

Exempt information means information falling within the following categories (defined by Part 1 of Schedule 12A to The Local Government Act 1972, as amended), provided that two conditions are met. The first condition is set out in the second column of the following table:

<b>Category</b>	<b>Condition</b>
<b>1.</b> Information relating to any individual.	Information falling within paragraph 1 is exempt information 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.
<b>2.</b> Information which is likely to reveal the identity of an individual.	Information falling within paragraph 2 is 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.
<p><b>3.</b> Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p>‘Financial or business affairs’ includes contemplated as well as current activities.</p>	<p>Information falling within paragraph 3 is 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 falling within paragraph 3 is not exempt information if it is required to be registered under:</p> <p>The Companies Act (as defined in section 2 of the Companies Act 2006)  The Friendly Societies Act 1974  The Friendly Societies Act 1992  The Industrial and Provident Societies Act 1965 to 1978  The Building Societies Act 1986  The Charities Act 1993</p>
<p><b>4.</b> Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>Information falling within paragraph 4 is 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.</p> <p>‘Labour relations matters’ are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act or any dispute about a matter within this paragraph).</p>
<p><b>5.</b> Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information falling within paragraph 5 is 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.</p>
<p><b>6.</b> Information which reveals that the authority proposes:</p> <p>to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>to make an order or direction under any enactment.</p>	<p>Information falling within paragraph 6 is 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.</p>

<p><b>7.</b> Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information falling within paragraph 7 is 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.</p>
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The second condition is that information is not exempt information if it relates to proposed development, for which the local planning authority may grant itself planning permission, pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

## **11. EXCLUDING PUBLIC ACCESS TO REPORTS**

The public may be denied access to reports if the Head of Paid Service believes that the report relates to matters which, in accordance with Rule 10, will not be considered in a public meeting. Such reports will be marked 'Not for publication', together with the category of information likely to be disclosed.

## **12. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS**

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

All councillors will be entitled to inspect any document which is in the possession, or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting; a decision made by an individual member; or a decision taken by an officer, unless it contains:

- a) Exempt information, as defined in Rule 10, apart from information falling within categories 3 (except in relation to proposed contracts), 6 and
- b) The advice of a political assistant.

### **12.2 Timescale**

Any document required to be available for inspection under Rule 12.1 must be made available for inspection, in any event, within 24 hours of the conclusion of the meeting on the decision being made, as the case may be.

### **12.3 Material relating to key decisions**

All councillors will be entitled to inspect any document (except those available only in draft form) in the possession, or under the control of the Cabinet or its committees, which relates to any key decision, unless Rule 12.1 a) or b) applies.

#### **12.4 Nature of rights**

These rights of a councillor are additional to any other right he/she may have. A fuller statement of these rights is set out in the Protocol on Councillor and Officer Relations contained in Part 8 to this Constitution.

## **PART 4.4 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. THE FRAMEWORK FOR CABINET DECISIONS**

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

### **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

The process by which the Budget and Policy Framework shall be developed is:

- 2.1** Each year the Head of Paid Service and relevant Cabinet members will, in their joint report to the Overview and Scrutiny Committee on potential issues for the committee's work programmes, include any matters which form part of the Budget and Policy Framework and which will require adoption in the coming year.
- 2.2** No less than two months before any plan, strategy or budget, that forms part of the Budget and Policy Framework, needs to be adopted, the Cabinet will publish initial proposals and a timetable to the Council. This will be included in the notice of intention to make a key decision. The timetable will be publicised on the Council's website and will give details of the arrangements for consultation, after publication, of those initial proposals.
- 2.3** If the Overview and Scrutiny Committee wishes to include the matter in the work programme, the chief officer will ensure that the committee is consulted in good time, to enable the committee's views to be considered by the Cabinet or Cabinet Member, prior to firm proposals being submitted to the Council.
- 2.4** In the event that the Overview and Scrutiny Committee chooses to consider a report which forms part of the Budget and Policy Framework, then its views shall be included in the report submitted to the Cabinet or Cabinet Member, who shall take them into account in drawing up firm proposals for submission to the Council. The report to Council will reflect the comments made by the Overview and Scrutiny Committee consultees and the Cabinet's response.
- 2.5** At the end of that period, the Cabinet will then draw up firm proposals, having regard to the responses of that consultation. If the Overview and Scrutiny Committee wishes to respond to the Cabinet with a report, in that consultation process, they may do so. The Cabinet will take any report, from the Overview and Scrutiny Committee, into account in drawing up firm proposals for submission to the Council, in accordance with the Overview and Scrutiny Procedure Rules (Part 7). The Cabinet's report will respond to comments made by consultees, including reasons for action or inaction, as appropriate.

- 2.6** When drawing up firm proposals, the Cabinet should be mindful that, subject to the provisions of paragraph 4 (urgent decisions outside the Budget and Policy Framework), the responsibility for agreeing the Budget and Policy Framework lies with the Council; and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, or officers, area committees, or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals, except where the Council has agreed this at the time of agreeing the Budget or relevant policy or strategy.
- 2.7** Once the Cabinet has approved the firm proposals, they will be placed on the agenda of the next ordinary meeting of the Council, for decision, unless the Head of Paid Service is of the view that there is an overriding requirement for the proposals to be considered earlier, when the Head of Paid Service will arrange for an extraordinary meeting of the Council to be convened.
- 2.8** The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting. The decision shall be publicised.
- 2.9** If the Council accepts the recommendation of the Cabinet without amendment, or the Leader of the Council supports a proposal to amend the recommendation, the Council may make a decision which has immediate effect.
- 2.10** If the Council proposes an amendment which the Leader of the Council does not support, the Council may only make an in-principle decision. An in-principle decision will automatically become effective on the expiry of 5 working days from the date of the Council's decision, unless the Leader informs the Head of Paid Service, in writing, within the period of 5 working days, that he/she objects to the decision becoming effective and provides reasons why. Where such notification is received, the Head of Paid Service shall convene a further meeting of the Council, to reconsider its decision, and the decision shall not be effective, pending that meeting.
- 2.11** The Council meeting must take place within 15 clear working days of the receipt of the Leader's written objection. The Council will be required to reconsider its decision and the Leader's written submission.
- 2.12** The Council shall make its final decision on the matter, on the basis of a simple majority of votes cast at that meeting.
- 2.13** The decision shall then be made public and shall be implemented immediately.



### **3. DECISIONS OUTSIDE THE AGREED BUDGET OR POLICY FRAMEWORK**

**3.1** Subject to the provisions of paragraph 5 (virement) the Cabinet, committees of the Cabinet and any officers, area committees, or joint arrangements discharging Cabinet functions, may only take decisions, which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision, which is contrary to the Policy Framework, or contrary, or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.

**3.2** If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to, or not wholly in accordance with, the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred, by that body or person, to the Council, for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the Budget and Policy Framework) shall apply.

**3.3** Council may either:

- a) endorse a decision, or proposal, of the Cabinet decision-taker, as falling within the existing Budget and Policy Framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated, to all councillors, in the normal way; or
- b) amend the Budget or Policy Framework concerned, to encompass the decision or proposal of the decision-taker responsible for that Cabinet function, and agree to the decision with immediate effect. In this case, no further action is required, save that the decision of the Council be minuted and circulated, to all councillors, in the normal way; or
- c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to, or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, the Council will require the decision-taker to reconsider the matter, in accordance with the advice of either the Monitoring Officer or Chief Finance Officer, and refer it back to the Cabinet. The decision-taker must reconsider within 7 working days of the Council meeting. Whatever decision the Cabinet takes at that meeting is final, bearing in mind that a decision taken outside the Budget or Policy Framework will be unlawful.

#### **4. URGENT DECISIONS OUTSIDE THE AGREED BUDGET OR POLICY FRAMEWORK**

**4.1** The Cabinet, a committee of the Cabinet, an individual member of the Cabinet, or officers, area committees, or joint arrangements discharging Cabinet functions, may take a decision which is contrary to the Council's policy framework or contrary to, or not wholly in accordance with, the Budget approved by full Council, if the decision is a matter of urgency. However the decision may only be taken if:

- a) it is not practical to convene a quorate meeting of the full Council; and
- b) where the decision is subject to call-in, the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

**4.2** The reasons why it is not practical to convene a quorate meeting of full Council, and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency, must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Chairman of the Council will be required. In the absence of both the Chairman of the Overview and Scrutiny Committee and the Chairman of the Council, the consent of the Vice-Chairman of the Council will be required.

**4.3** Following an urgent decision, the decision-taker will provide a full report to the next available Council meeting, explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5. VIREMENT**

**5.1** The Council's budget heads shall be shown in the budget book for the current financial year.

**5.2** Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, area committees, or joint arrangements discharging Cabinet functions, to implement Council policy, shall not exceed those budgets allocated to each budget head for which they have responsibility. However, such bodies or individuals shall be entitled to vire across budget heads, provided there is compliance with the Financial Procedure Rules (included in Part 10 of this Constitution).

**5.3** The Council has included in its Financial Procedure Rules (Part 10 of this Constitution) provisions which set out the rules for moving monies between budgetary allocations. Increases in the overall Budget must be approved by the Council.

## **PART 4.5 - PETITION SCHEME**

### **1. FOLKESTONE AND HYTHE DISTRICT COUNCIL'S PETITION SCHEME**

**1.1** The Council welcomes petitions and recognises that petitions are one way in which people can let the Council know their concerns. All petitions sent, or presented, to the Council will receive an acknowledgement from the Council within 10 working days of receipt.

**1.2** This acknowledgement will set out what the Council plans to do with the petition. The Council will treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.

**1.3** Paper petitions should be sent to:  
Head of Paid Service  
Folkestone and Hythe District Council  
Civic Centre  
Castle Hill Avenue  
Folkestone,  
Kent CT20 2QY

**1.4** or be created, signed and submitted online, via the Council's website, under 'Petitions'.

**1.5** Petitions can also be presented to a meeting of the Council. The dates and times of Council meetings can be found under committee meeting dates on the Council's website.

**1.6** To present a petition to the Council, please contact the Council's Committee Services section, at least 15 working days before the meeting, to discuss the process.

**1.7** If a petition has 250 signatures and is not a petition concerning a matter mentioned in paragraph 3.3 below, the Council will, if presented to full Council, make one of the following decisions on the petition; namely to:

- a) Note the petition and take no further action;
- b) Refer the petition to the Cabinet or the Overview and Scrutiny Committee, as the case may be, for their observations before deciding whether to examine the issues raised by the petition;
- c) Agree to examine the issues raised by the petition, by debate, at the meeting or a future meeting;
- d) Agree to examine the issues raised by the petition, as part of a future scrutiny programme.

### **2. GUIDELINES FOR SUBMITTING A PETITION**

**2.1** Petitions submitted to the Council must include:

- a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- b) The name and address and signature of any person supporting the petition.
- c) At least 250 valid signatures.

**2.2** Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person the Council will contact to explain how we will respond to the petition.

**2.3** A signatory to a petition must either live or work, or study, in the district, or meet one of the criteria for election to the District Council.

**2.4** The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, the Council will contact signatories to the petition, to agree who should act as the petition organiser.

**2.5** Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. Petitions, for example, that target individuals, or relate to legal proceedings, are therefore unlikely to be accepted. In the period immediately before an election, or referendum, the Council may need to deal with a petition differently. If this is the case, the Council will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Council will write to the petition organiser to explain the reasons.

**2.6** A petition must be received at least ten clear working days before a meeting of full Council if it is to be considered, or received, at this meeting. In some cases it may not be possible to place the petition on the agenda but the Council will endeavour to do so, where possible.

### **3. WHAT THE COUNCIL DOES AFTER RECEIVING A PETITION**

**3.1** An acknowledgement is sent to the petition organiser within 10 working days of receiving the petition. It will let them know what the Council plans to do with the petition and when it will contact the petition organiser next. It will also be published on the Council's website.

**3.2** If the Council are able to do what is requested in the petition, the acknowledgement may confirm that the Council have taken the action requested and the petition will be closed. If the petition has enough signatures to be presented to Council, then the acknowledgment will confirm this and inform the petition organiser when and where the Council meeting will take place. If the petition needs more investigation, the Council will inform the petition organiser of the steps the Council plans to take.

- 3.3** If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply and the petition will not be received or considered by the full Council meeting. Further information on all these procedures, and how the public can express their views, is available on the Council's website.
- 3.4** If a petition contains fewer than 250 signatures (and does not concern a matter referred to in paragraph 3.3 above) the decision on how to respond to the petition shall be made by the relevant Assistant Director or Chief Service Officer in consultation with the relevant portfolio holder.
- 3.5** The Council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate, and will explain the reasons for this in its acknowledgement of the petition.
- 3.6** To ensure that people know what the Council is doing, in response to the petitions it receives, the details of all the petitions, submitted to the Council, will be published on its website, except in cases where this would be inappropriate. Whenever possible, the Council will also publish all correspondence relating to the petition (all personal details will be removed). When an e-petition is signed, the signee can elect to receive this information by email. The Council will not send the signee anything which is not relevant to the e-petition that has been signed, unless the signee chooses to receive other emails from the Council.

#### **4. HOW THE COUNCIL RESPONDS TO PETITIONS**

- 4.1** The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- a) Taking the action requested in the petition;
  - b) Considering the petition at a Council meeting;
  - c) Holding an inquiry into the matter;
  - d) Undertaking research into the matter;
  - e) Holding a public meeting;
  - f) Holding a consultation;
  - g) Holding a meeting with petitioners;
  - h) Referring the petition for consideration by the Council's Overview and Scrutiny Committee;
  - i) Calling a referendum;

- j) Writing to the petition organiser, setting out our views about the request in the petition.

The Overview and Scrutiny Committee is a committee of councillors who are responsible for scrutinising the work of the Council: in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision-makers to account.

- 4.2** In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If the petition is about something over which the Council has no direct control (for example the local railway or hospital) it will consider making representations, on behalf of the community, to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to the petition. If the Council is not able to do this, for any reason (for example, if what the petition calls for conflicts with Council policy), then it will set out the reasons for this to the petition organiser.

More information on the services, for which the Council is responsible, can be found at: [www.folkestone-hythe.gov.uk/petitions](http://www.folkestone-hythe.gov.uk/petitions).

- 4.3** If a petition is about something that a different Council is responsible for, the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event, the Council will always notify the petition organiser of the action it has taken.

## **5. PRESENTATION OF PETITION**

If a petition contains 250, or more, signatures the petition organiser may present the petition to the full Council. The Council will endeavour to receive the petition at its next meeting, though, on some occasions, this may not be possible. The petition organiser will be given five minutes to present the petition at the meeting.

## **6. E-PETITIONS**

- 6.1** The Council welcomes e-petitions which are created and submitted through its website at [www.folkestone-hythe.gov.uk/petitions](http://www.folkestone-hythe.gov.uk/petitions). E-petitions must follow the same guidelines as paper petitions.

- 6.2** The petition organiser will need to provide the Council with their name, postal address and email address. The petition organiser will also need to decide how long they would like the petition to be open for signatures. Most petitions run for six months, but can run for a shorter or longer timeframe but up to a maximum of 12 months.

- 6.3** When an e-petition is created, it may take five working days before it is published online. This is because the Council has to check that the content of the petition is suitable before it is made available for signature.
- 6.4** If the Council feels it cannot publish the petition for some reason, it will contact the petition organiser, within this time, to explain. Following this, the e-petition will be able to be changed and resubmitted. If this is not done within 10 working days, a summary of the petition, and the reason why it has not been accepted, will be published under the 'rejected petitions' section of the website.
- 6.5** When an e-petition has closed for signature, it will automatically be submitted to the Head of Paid Service. In the same way as a paper petition, an acknowledgement will be sent, within 10 working days. If the petition organiser would like to present the e-petition to a meeting of the Council, they can contact the Committee Services section, within 10 working days of receipt of the acknowledgement.
- 6.6** A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on the website.

## **7. HOW TO 'SIGN' AN E-PETITION**

- 7.1** All the e-petitions, currently available for signature, are on the Council's, website under 'Petitions'.
- 7.2** When an e-petition is signed, the signee will be asked to provide their name, postcode and a valid email address. When this information has been submitted, an email will be sent to the email address provided. This email will include a link, which must be clicked on in order to confirm the email address is valid. Once this step is completed, the signee's 'signature' will be added to the petition. People visiting the e-petition will be able to see all the names, in the list of those who have signed it, but contact details will not be visible.