

## Section 1 - Council and committee meeting rules

**Underlined paragraph numbers denote rules that apply to committees in accordance with rule 4.1.2.1.**

**\* denotes rules which cannot be suspended**

### **4.1.1 Council procedure rules**

4.1.1.1\* These rules set out how meetings of full Council, the cabinet, committees and other bodies will be conducted.

### **4.1.2 Application**

4.1.2.1\* All of these rules apply to the meetings of full Council. Only rules 4.1.3 – 4, 4.1.9 – 12 and 4.1.16 – 25 apply to meetings of committees, sub-committees and other decision making bodies; they do not apply to meetings of cabinet. For ease of reference the paragraph numbers of those rules applying to all meetings are underlined.

4.1.2.2\* Where there is any inconsistency between these council and committee rules and the meeting specific rules that follow in the remainder of part 4 of the constitution, the latter shall prevail.

4.1.2.3\* In the application of these rules to meetings other than full Council meetings, greater informality may be exercised at the discretion of the chairman of the meeting.

### **4.1.3 Interpretation**

4.1.3.1\* The ruling of the chairman at the meeting as to the construction or application of the rules that apply to that meeting shall not be challenged at the meeting.

### **4.1.4 Appointment of chairman**

4.1.4.1\* If at any meeting the chairman and vice-chairman appointed by Council are absent, or if no chairman or vice-chairman has been appointed by Council, the meeting shall appoint a chairman for that meeting only. The monitoring officer or his/her representative at the meeting shall at the start of the meeting invite nominations for chairman and will take a vote on a show of hands for those members nominated for chairman.

### **4.1.5 Council meetings**

4.1.5.1\* There are three types of Council meeting: annual, ordinary, and extraordinary. The table at paragraph 4.1.5.2 below sets out when these may take place.

4.1.5.2\*

<b>Type of meeting</b>	<b>When</b>
The annual meeting	<ul style="list-style-type: none"> <li>• In a year when there have been ordinary elections, within 21 days of the retirement of outgoing councillors</li> <li>• In other years in either March, April or May</li> </ul>
Ordinary meetings	<ul style="list-style-type: none"> <li>• Five meetings a year as set out in a programme decided by Council and, except that one ordinary</li> </ul>

	meeting will take place in February and will be reserved as the budget meeting, with business as outlined in the table at 4.1.6.1 below.
Extraordinary meetings	<p>The chief executive may be requested to call a meeting by:</p> <ul style="list-style-type: none"> <li>• Council, by resolution;</li> <li>• the chairman of the council;</li> <li>• the monitoring officer; or</li> <li>• any five members of the council if they have signed a requisition stating the grounds for the extraordinary meeting and the business to be conducted at that meeting and presented it to the chairman and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</li> </ul> <p>The chief executive will determine whether the stated business can wait until the next ordinary meeting of Council and, if it cannot, will call an extraordinary meeting.</p>

#### 4.1.6 Business to be carried out

4.1.6.1\* The business to be carried out at meetings of the council is as set out below; those items marked with \* are compulsory items the order of which cannot be altered

Item of business	Type of meeting		
	Annual	Ordinary	Extra-ordinary
Elect a person to preside if the chairman and vice-chairman of the council is not present	✓ *	✓ *	✓ *
Elect the chairman of the council	✓ *		
Appoint the vice-chairman of council	✓ *		
Receive any apologies for absence	✓ *	✓ *	✓ *
Receive any declarations of interest	✓ *	✓ *	✓ *
Approve the minutes of the previous meeting(s)	✓ *	✓ *	
Receive any announcements from the chairman and/or chief executive	✓	✓	
Elect the leader of the council	✓ *		
Appoint the chairmen and vice-chairmen of committees and other bodies	✓ *		

Item of business	Type of meeting		
	Annual	Ordinary	Extra-ordinary
Appoint at least one scrutiny committee and such other committees as Council considers appropriate to deal with matters which are neither reserved to Council nor are cabinet functions	✓ *		
Decide the size and terms of reference of those committees	✓ *		
Decide the allocation of seats on committees and other bodies to political or other groups in accordance with the political balance rules	✓ *		
Make such appointments to committees or outside bodies as are reserved to Council	✓ *		
Approve a programme of ordinary meetings of Council for the year	✓	✓	
Consider any other business specified in the summons to the meeting	✓	✓	✓
Receive any questions from, and provide answers to, members of the public. In the case of extraordinary meetings and budget questions must relate to items on the agenda.		✓	✓
Receive recommendations on statutory plans or other matters that are reserved to Council.		✓	
Consider and debate any petitions which have reached the threshold for Council consideration		✓	
Receive the following reports from the leader of the council (on which they may be questioned and if so, answer questions): <ul style="list-style-type: none"> <li>• the work of the cabinet since the last meeting including a summary of those matters decided by the cabinet, cabinet member or any executive joint committee, and any decisions taken under the urgency provisions;</li> <li>• the first meeting following the annual meeting an annual report on the priorities of the cabinet and (except in a year when there are ordinary elections) progress made in meeting those priorities; and</li> <li>• any report to Council required by a scrutiny committee.</li> </ul>		✓	

Item of business	Type of meeting		
	Annual	Ordinary	Extra-ordinary
Consider motions and debate those motions in the order in which they have been received.		✓	
Receive any questions from and provide answers to members of the council. At the budget meeting questions must relate to items on the agenda		✓	

#### **4.1.7 Time of meetings**

- 4.1.7.1\* Meetings of full Council will usually be at 10.00 am or any other such time as the chairman agrees, and will continue for a maximum of three hours.
- 4.1.7.2\* At the expiry of three hours, the chairman may determine: that the remaining business to be conducted at the meeting be:
- a that the meeting continue beyond three hours duration; or
  - b that the remaining business to be conducted at the meeting be:
    - i. deferred to the next meeting; or
    - ii. deferred to an extraordinary meeting called for the purpose of dealing with any remaining business; or
    - iii. put to the vote immediately in the order that the business appears on the agenda or in any order determined by the chairman;
    - iv. put some business to the vote immediately defer other in accordance with rules (a) and (b) above; or
  - c. The meeting be adjourned to resume later that day after a specified break provided that the remaining business can reasonably be expected to last no more than two additional hours and cannot be deferred until the next meeting.
- 4.1.7.3\* The chairman has discretion to order the adjournment of any meeting, to (following consultation with the leader of the council) alter the date or time of any meeting, or to cancel a meeting if in the event of an emergency or where there is no business requiring Council approval.

#### **4.1.9 Notice of meetings**

- 4.1.9.1\* The monitoring officer will, through publication on the council's website, give five clear working days notice to the public of the time and place of any meeting (or otherwise in cases of urgency as in accordance with the [access to information rules \(part 4 section 2\)](#)).

#### **4.1.10 Conduct of the meeting**

**4.1.10.1\*** The chairman's powers and responsibilities in relation to the conduct of a meeting may be exercised by the person presiding at the meeting. A decision by the chairman on the meaning of the constitution cannot be challenged at a meeting.

#### **4.1.11 Quorum**

**4.1.11.1\*** Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of voting members, or three voting members, whichever is the greater.

**4.1.11.2\*** If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.

**4.1.11.3\*** During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

**4.1.11.4\*** Subject to 4.1.11.5 remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

**4.1.11.5\*** The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment under 4.1.11.3 that there are sufficient members present to constitute a quorum.

#### **4.1.12 Variations in order of business**

**4.1.12.1\*** The chairman has discretion to vary the order of business other than where indicated in the table at paragraph 4.1.4.1 above. The compulsory order of business for ordinary meetings of Council apply to all cabinet and committee meetings of the council

**4.1.12.3\*** A proposed variation may be moved by the chairman or any other member. Where moved by the chairman there is no need for it to be seconded. The variation will be put to the vote immediately without debate.

#### **4.1.13 Petitions**

**4.1.13.1** The chairman will be available 30 minutes before an ordinary Council meeting to receive petitions. During the meeting, as part of chairman's announcements, any petitions received will be formally passed to the relevant cabinet member or committee chairman who will respond in writing to the petition organiser. All petitions received, and responses provided will be published on the council's website.

**4.1.13.2** If a petition has been signed by more than 5% of those registered to vote in Herefordshire, and has not been rejected by the monitoring officer under the [petitions scheme \(in part 5 section 10\)](#) it may be debated at a meeting of Council if the petition organiser wishes. This will normally be at the next scheduled ordinary meeting of Council, other than the February meeting which is reserved for the budget.

4.1.13.3 Where a petition is to be debated at full Council, the petition organiser will be given three minutes to present the petition at the meeting and the petition will then be discussed by councillors. A maximum of 30 minutes will be allowed at any meeting to consider up to two petitions. This may be extended at the discretion of the chairman.

4.1.13.4 Council will decide how to respond to the petition at this meeting. They may decide to:

- take the action the petition requests (if it relates to a matter reserved to Council);
- not to take the action requested for reasons put forward in the debate;
- refer the matter to the relevant scrutiny committee to investigate further and report back (if it relates to a matter reserved to Council); or
- refer the matter to cabinet or a committee to respond (and in doing so may make recommendations they would wish that body to consider).

#### **4.1.14 Questions by the public**

4.1.14.1 Questions may be asked by members of the public at the following public meetings of the council:

- Full Council
- Cabinet (see cabinet rules )
- Audit and governance committee
- Health and wellbeing board
- Employment panel
- Overview and scrutiny committees (see scrutiny rules)

4.1.14.2 A period of up to 30 minutes at full Council or 15 minutes at other public meetings of the council where questions are permitted, will be allocated for questions and supplementary questions from members of the public who live or work in Herefordshire. This period may be varied at the discretion of the chairman.

4.1.14.2 At meetings of full Council, members of the public may ask questions of members of the cabinet and any chairman of a committee of the council; at other public meetings of the council where public questions are permitted the question should be addressed to the chairman of that committee.

#### **Notice of public questions**

4.1.14.4 A question may only be asked if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Tuesday where the meeting is on a Friday). Each question must give the name and address of the questioner (although only the name and town will be published) and identify who the question is addressed to. Copies of all accepted questions shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.

#### **Order of public questions**

4.1.14.5 Questions will be answered in the order in which they are received.

#### **Number of public questions**

- 4.1.14.6 A member of the public may submit only one question at any meeting of the council, to a maximum of six questions in any municipal year.

**Scope of public questions**

- 4.1.14.7 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- it is longer than 70 words;
  - it is in multiple parts;
  - it is not about a matter for which the council has a responsibility or which affects Herefordshire (or where a question is asked at a meeting other than full Council relating to the function of the committee or an item of the agenda);
  - it is defamatory, frivolous or offensive;
  - it is substantially the same as or similar to a question which has been put at a meeting of Council, a committee of council, or cabinet in the past six months;
  - it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - it is from a council employee and the question is connected to their employment;  
or
  - it relates to a planning application or licensing application.
- 4.1.14.8 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

**Asking the question at the meeting**

- 4.1.14.9 The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf.

**Supplementary questions**

- 4.1.14.10 A questioner who is present at the meeting may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the 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 4.1.14.7 above, or if the question takes the form of a statement or more than a minute to ask.

**Answers to public questions**

- 4.1.14.11 An answer to a question or a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

**Reference of question to the cabinet or a committee**

- 4.1.14.12 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question, but any member may move that the matter raised by a question be referred to the relevant cabinet member or committee. Once seconded, such a motion will be voted on without debate.

#### **Restrictions on asking public questions**

- 4.1.14.13 No questions may be asked at the annual meeting of council.
- 4.1.14.14 No questions may be asked at the budget meeting except in relation to reports published with the agenda.

No questions may be asked at an extraordinary meeting of council except in relation to reports published with the agenda.

#### **4.1.15 Questions from councillors**

- 4.1.15.2 A period of up to 30 minutes will be allocated for questions and supplementary questions from members of the council. This period may be varied at the discretion of the chairman.

A member may ask the chairman of the council, the leader, any member of the cabinet or the chairman of a committee a question about any matter in relation to which the council has powers or duties or which affects the county, in accordance with these council rules.

#### **Notice of questions**

- 4.1.15.3 A member may ask a question only if either:
- a notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Tuesday where the meeting is on a Friday).; or
  - b if the question relates to urgent matters, they have the consent of the member to whom the question is to be put, and the the question is delivered to the monitoring officer (as above) by 9.30 on the day of the meeting.

#### **Scope of questions**

- 4.1.15.4 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- a) it is longer than 70 words;
  - b) it is in multiple parts;
  - c) it is not about a matter for which the council has a responsibility or which affects Herefordshire (or where a question is asked at a meeting other than full Council relating to the function of the committee or an item of the agenda);
  - d) it is defamatory, frivolous or offensive;
  - e) it is substantially the same as or similar to a question which has been put at a meeting of Council in the past six months;
  - f) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - g) it is related to an employment matter; or

h) it relates to a planning application or licensing application

- 4.1.15.5 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

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

- 4.1.15.6 The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, the chairman will put the question on their behalf.

#### **Supplementary question**

- 4.1.15.7 A member who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the 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 xx above, or if the question takes the form of a statement or more than a minute to ask.

#### **Answers to councillors' questions**

- 4.1.15.8 An answer to a question or a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for councillors' questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

#### **Restrictions on asking questions**

- 4.1.15.11 No questions may be asked at the annual meeting of Council.
- 4.1.15.12 No questions may be asked at the budget meeting except in relation to those items listed on the agenda.

No questions may be asked at an extraordinary meeting of Council except in relation to those items listed on the agenda.

Members may submit no more than one question at any one meeting.

#### **4.1.16 Motions**

- 4.1.16.1 There are two types of motion: those which can be moved during debate (known as motions without notice), and those for which notice is required. Except for motions which can be moved without notice under these council rules, written notice of every motion, signed by the proposer and the seconder, must be delivered, or submitted electronically to the monitoring officer not later than midday on the seventh working day before the date of the meeting. A member cannot propose more than one motion on notice per meeting.

- 4.1.16.2 Motions on notice may be amended in consultation with the monitoring officer at any time prior to the publication of the agenda by the member(s) who have signed the notice provided that such amendment shall not change the subject matter of the motion.

4.1.16.3

#### **Motions set out in the agenda**

- 4.1.16.4 Motions for which notice has been given will be listed on the agenda in the order in which notice was received unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 4.1.16.5 Up to one and a half hours will be allocated for debate on notices of motion but that time may be varied at the discretion of the chairman.

#### **Scope**

- 4.1.16.6 Motions must be about matters for which the council has a responsibility or which affect the county. The chairman may, on the advice of the monitoring officer, refuse a motion which is illegal, scurrilous, improper, (subject to paragraph xx ) relates to a matter which has been the subject of debate or decision by Council in the previous six months, or is otherwise out of order. The member intending to give notice of the motion should consult the director(s) with responsibility for the matter, or their nominee, and the relevant cabinet member(s) and determine the context and possible consequences for what is proposed prior to submitting the motion.

If the motion requires referral to either cabinet or a commit of the council a report must be at a Council meeting within six months of the date of debate on the motion.

#### **Exceptions**

- 4.1.16.7 Where, following publication of the agenda for an ordinary meeting of Council, an urgent matter directly affecting part or all of the county arises and it is not practical to defer consideration of the motion to the next ordinary meeting of Council a motion signed by two members may be accepted by the chairman following consultation with the monitoring officer.

#### **Motions without notice**

4.1.16.8 The following motions may be moved without notice:

- a to appoint a person to preside at the meeting at which the motion is moved
- b to amend the minutes on a matter of accuracy
- c to change the order of business in the agenda where these procedure rules allow
- d to refer something to an appropriate body or individual to consider or reconsider
- g to withdraw a motion
- h to amend a motion (refer to para xxx below)

- i to proceed to the next business
- j that the question be now put
- k to adjourn a debate
- l to adjourn a meeting
- m that the meeting continue beyond three hours duration
- n to exclude the public in accordance with the access to information procedure rules
- o not to hear a member further or to require a member to leave the meeting
- p to give the consent of Council where its consent is required by this constitution
- q to suspend a specified council rule it is permitted to suspend
- r to request a recorded vote.

### **Rules of debate**

4.1.16.9 A debate will commence only when a proposal has been made, explained and seconded.

4.1.16.x No member may speak unless called upon by the chairman.

4.1.16.12 Speeches must be directed to the matter being debated.

### **When a member may speak**

4.1.16.13 Members may speak as detailed in the table below. The flow chart attached at appendix 1 to this section summarises the process of debate:

<b>Purpose of speech</b>	<b>Who can make the speech</b>	<b>Length of speech</b>
Present a report	Leader Cabinet member Committee chairman	5 minutes
Propose original motion	Proposer	5 minutes
Second the motion	Seconder (may reserve their right to speak until the end of the debate)	3 minutes
Propose an amended motion	Any member other than proposer/seconder of original motion	3 minutes
Second an amended motion	Any member other than proposer/seconder of original motion	3 minutes
Speak during debate on an amended motion	Any member other than proposer and seconder of amended motion and proposer of the original motion	3 minutes
Right of reply to debate on amended motion	Proposer of original motion	3 minutes

<b>Purpose of speech</b>	<b>Who can make the speech</b>	<b>Length of speech</b>
Respond to specific question	Cabinet member	2 minutes
Propose the budget	Leader	10 minutes
Second the budget	Deputy leader	5 minutes
Respond to budget proposals	Group leaders	5 minutes
Right to reply to budget debate	Leader	5 minutes
Point of order	Any member	2 minutes
Personal explanation	Any member	2 minutes

### **Amendments to motions**

- 4.1.16.14 An amendment must be relevant to the motion and may alter the wording as long as the effect is not to negate the motion. Unless notice of the amended motion has already been given, the chairman may require it to be written down or in its altered form to be written down and handed to him or her before it is discussed
- 4.1.16.15 Amendments will be considered in the order in which they are received or tabled. No further amendment may be moved until the amendment under discussion has been debated and voted on.
- 4.1.16.16 If an amended motion is not, other amendments to the original motion may be moved.
- 4.1.16.17 If an amended motion 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.
- 4.1.16.18 After an amended motion has been carried, the chairman will read out the substantive motion before accepting any further amendment, or if there is none, it is put to the vote.
- 4.1.16.x1 Members intending to propose an amended motion should normally submit the proposed amendment to the monitoring officer by 9.30am on the morning of the meeting the meeting.
- 4.1.16.x2 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is being proposed, members making such an amendment must have consulted with the relevant director to determine the context and possible consequences of the proposal and have secured confirmation from the chief finance officer that the action proposed is achievable before submitting the amendment, in accordance with the budget and policy framework rules.
- 4.11.16.x3 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is approved by Council the leader, on behalf of the cabinet, may indicate acceptance of the amendment.

### **Alteration of motion**

- 4.1.16.19 A member may alter a motion of which they have given notice with the consent of the seconder and the meeting. The meeting's consent will be signified without discussion.

4.1.16.20 A member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

4.1.16.21 Only alterations which could be made as an amendment may be made.

#### **Withdrawal of motion**

4.1.16.22 A member may withdraw a motion which they have moved without the consent of either the meeting and the seconder. .

#### **Right of reply**

4.1.16.23 The proposer of an original motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.

4.1.16.24 If an amended motion is proposed, the proposer of the original motion has a right of reply at the close of debate on the amended motion, but may not otherwise speak on the amendment.

4.1.16.25 The proposer of an amended motion shall have no right of reply to the debate on the amendment.

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

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

- a to withdraw the motion
- b to amend the 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 that the meeting continue for a further half hour
- h to exclude the press and public in accordance with the access to information rules
- i that a member be not further heard or to exclude the member from the meeting.

#### **Closure motions**

4.1.16.27 A member may move without comment the following motions at the end of a speech of another member:

- a that the question be now put
- b to adjourn a debate
- c to adjourn a meeting.

4.1.16.28 If a motion that the question be now put is seconded and the chairman thinks the item under discussion has been sufficiently discussed, the proposer of the original motion will have a right of reply before the matter is put to the vote. Any member who has reserved their right to speak later in the debate will not be heard.

#### **Point of order**

4.1.16.31 A member may raise a point of order at any time and the chairman will hear it immediately. A point of order may only relate to the alleged breach of these council rules or the law. The member must indicate the section and the way in which they consider it has been broken. The ruling of the chairman on the matter will be final and there will be no debate on the matter.

#### **Personal explanation**

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

#### **Conduct of the debate**

4.1.16.33 A member may indicate their wish to speak and shall wait to be called by the chairman. If more than one member so indicates the chairman shall call on them individually and in turn to speak.

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

4.1.16.34 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 to the Council is signed by at least eighteen of the members of Council and sets out evidence of a change in circumstances or position or other information that materially affects the decision taken. The chairman shall, following consultation with the monitoring officer and chief finance officer, make the final determination as to whether the change identified has a material effect.

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

4.1.16.35 A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least eighteen of the members of Council.

4.1.16.36\* Once a motion or amendment to which this rule applies has been dealt with, no member can propose a similar motion or amendment within the next six months.

#### **Voting majority**

4.1.16.37\* Unless this constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.

### **Chairman of the council's casting vote**

4.1.16.38\* 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.

### **On the voices and show of hands**

4.1.16.39\* Unless a recorded vote is requested the chairman will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the chairman will take the vote by a show of hands.

### **Recorded vote**

4.1.16.40\* If at least eight members (or pro-rata for other committees to which these rules apply) present at the meeting requested 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. All votes taken at a budget decision meeting and relating to a budget decision are to be recorded votes. Where a recorded vote is taken the record of members voting will be included in the minutes of that meeting.

4.1.16.41\* Reference to a "budget decision meeting" for the purposes of 4.1.16.40 means a meeting of Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, or 52ZJ of the Local Government Finance Act 1992 and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting.

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

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

### **4.1.17 Voting on appointments**

4.1.17.1\* Where 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.

### **4.1.18 Keeping of minutes**

4.1.18.1\* Minutes of the proceedings of each meeting of the council will be prepared and will be published on the council's website.

### **Signing the minutes**

4.1.18.2\* The chairman will sign the minutes at the next available meeting. The chairman will move that the minutes of the previous meeting be signed as a correct record. There will be no debate or questioning on matters arising from the minutes; only matters of accuracy may be determined.

**4.1.18.3\*** In the case of any question of the accuracy of the minutes this can only be raised where notice is given to the monitoring officer by 9.30am on the morning of the meeting at which this is to be raised unless the chairman determines otherwise at the meeting.

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

**4.1.18.4\*** Where in relation to any meeting, the next meeting for the purposes of signing the minutes is an extraordinary meeting, then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of signing of minutes.

**4.1.19 Exclusion of the public**

**4.1.19.1\*** The public and press may only be excluded either in accordance with the [access to information rules \(part 4 section 2\)](#) or in the case of disturbance by the public in accordance with these [council rules 4.1.21.1](#).

**4.1.20 Members' conduct**

**4.1.20.1\*** When the chairman stands during a debate any member(s) then speaking must discontinue and the council must be silent.

**4.1.20.2\*** If a member is guilty of misconduct by persistently disregarding the ruling of the chairman of the council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any member may move that that member is not further heard. If seconded, the motion will be voted on without discussion.

**4.1.20.3\*** If the member continues to behave improperly after such a motion is carried, any member may move either that the member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**4.1.20.4\*** If there is a general disturbance making orderly business impossible, the chairman may adjourn the meeting for as long as they think necessary.

**4.1.20.5\*** The decision as to whether misconduct is taking place shall rest with the chairman who will have due regard to the councillor code of conduct.

**4.1.21 Disturbance by the public**

**4.1.21.1\*** If a member of the public interrupts proceedings, the chairman will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.

**4.1.21.2\*** If there is a general disturbance in any part of the meeting room open to the public the chairman shall order that part to be cleared and the chairman may for that purpose adjourn the meeting for as long as is needed, and may resume the meeting with or without members of the public being admitted and/or at another location deemed appropriate

#### **4.1.22 Suspension and amendment of council rules**

4.1.22.1\* Any of the council rules may be suspended for all or part of the business of a meeting at which suspension is moved by a motion, [except rules 4.1.1 to 4.1.12, 4.1.16.37 to 4.1.16.42, and 4.1.17 to 4.1.22 and 4.1.25](#) For ease of reference the rules which cannot be suspended are identified by the symbol \*

4.1.22.2\* Such a motion cannot be moved without notice unless at least two thirds of the whole number of members of the council is present. Suspension shall be limited to the duration of the meeting or the determination of a particular item of business if appropriate and as specified in the motion.

#### **4.1.23 Substitution**

4.1.23.1 The monitoring officer on behalf of the chief executive may receive notice from a group leader or authorised nominee on behalf of that group that a different member of their group shall be substituted at a meeting for the member previously allocated to a place on a committee, sub-committee or other body to which the proportionality rules apply for the duration of that meeting. The giving of notice by email no later than 3.00 p.m. on the last working day prior to the date of the meeting is encouraged.

4.1.23.2 The monitoring officer (in consultation with the ungrouped member(s) concerned) may substitute another ungrouped member for an ungrouped member who has notified the monitoring officer in writing that they are unable to attend a meeting for the duration of that meeting. Such notification must be given no later than 3.00 p.m. on the last working day prior to the date of the meeting.

#### **4.1.24 Recording, filming and reporting of meetings**

4.1.24.1 Where meetings of the council are open to the public, any person attending may record, film or report meetings is permitted to do so, provided that in doing so there is no disturbance to the meeting.

#### **4.1.25 Interests under the councillors' code of conduct**

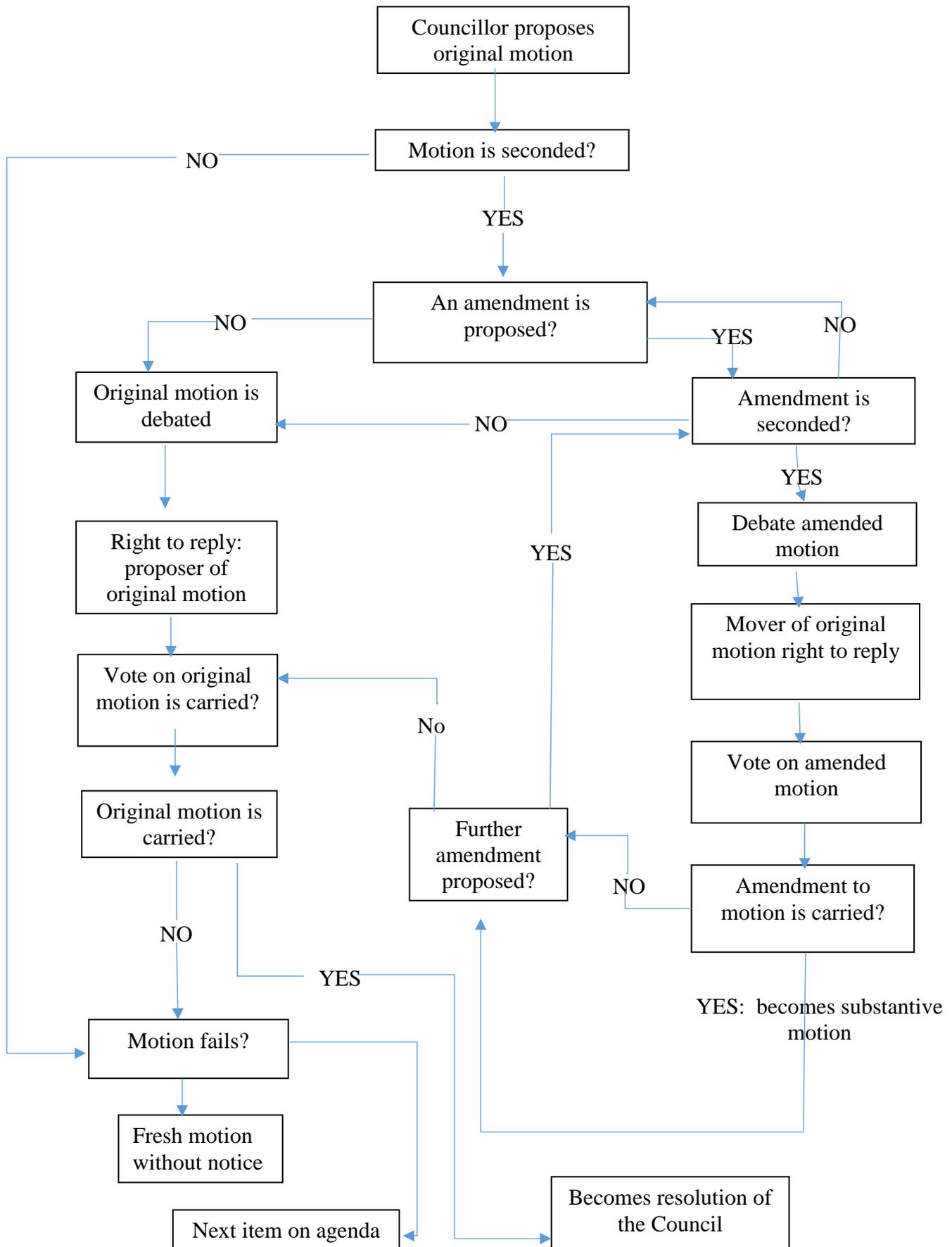
4.1.25.1\* Members must abide by the [councillors' code of conduct \(part 5 section 1\)](#) adopted by the council and declare all disclosable pecuniary interests and non-registerable interests in accordance with the code. Where a member has identified and declared a disclosable pecuniary interest, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted.

#### **4.1.x Confidentiality**

4.1.x.x\* All reports and other documents marked "confidential" or "exempt from publication" shall be so treated unless they become public in the ordinary course of the council's business. Such determination shall ordinarily be made by the monitoring officer having regard to the access to information rules. Further, all members must comply with the obligations as to confidentiality set out in the [councillors' code of conduct \(part 5 section 1\)](#). Any alleged breaches shall be referred by the chairman of the council to the monitoring officer for consideration and report if not previously referred by some other person. The chairman may

require the surrender of such material at the end of discussion of the relevant item.

Appendix 1 Process for debate



## Section 2 - Access to information rules

### 4.2.1 Meetings covered by these rules

4.2.1.1 Rules 4.2.2 – 4.2.12 apply to all meetings of:-

- a Council, or joint committees formed by Council
- b the cabinet, or joint committees formed by the cabinet
- c the audit and governance committee
- d an overview and scrutiny committee
- e the planning and regulatory committee
- f the licensing sub committee
- g the employment panel
- h the health and wellbeing board

ial sub-committees except as provided for by law or elsewhere in this constitution.

4.2.1.2 Rules 4.2.13-4.2.21 contain additional rules for meetings of the executive prescribed by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### 4.2.3 Rights to attend meetings

4.2.3.1 Members of the public and elected members may attend all meetings unless they have been excluded in accordance with the provisions of these rules (paragraph 4.2.11).

### 4.2.4 Notice of meetings

4.2.4.1 The council will give at least five clear working days' notice of any meeting by posting details of the meeting on the website and at the designated office (Shire Hall, St Peter's Square, Hereford), unless the meeting is convened at shorter notice in which case such notice will be given from the time that the meeting is convened.

### 4.2.5 Access to agenda and reports before the meeting

4.2.5.1 Copies of:

- a the agenda, and
- b those reports which are open to the public

shall be made available for inspection at the designated office and on the council's website at least five clear working days before the meeting, unless paragraphs 4.2.5.2 or 4.2.5.3 apply.

4.2.5.2 If a meeting is convened with less notice, copies of the agenda and reports must be open to inspection from the time the meeting is convened.

4.2.5.3 If an item is added to an agenda which is open to inspection, copies of the item and the revised agenda must be open to inspection from the time the item is added to the agenda.

#### **4.2.6 Consideration of items of business**

4.2.6.1 An item of business may not be considered at a meeting unless either:-

- a a copy of the agenda including the item (or a copy of it) is open to inspection by a member of the public for at least five clear working days before the meeting, or if the meeting was convened with less notice, from the time the meeting is convened, or
- b the chairman of the meeting considers that for reasons which should be specified in the minutes, the item should be considered at the meeting as a matter of urgency.

4.2.6.2 Rules in paragraphs 4.2.14 and 4.2.15 apply if the item of business relates to a key decision.

#### **4.2.7 Supply of copies**

4.2.7.1 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 monitoring officer thinks fit, 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.

4.2.7.2 The council may first direct a member of the public seeking copies of documents referred to in 4.2.7.1 to the council's website if copies of those documents are available there.

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

#### **4.2.8 Access to minutes etc after the meeting**

4.2.8.1 The council will retain for six years and make available copies of the following:

- a the minutes of the meeting, for all meetings covered by these rules as set out by 4.2.1 above, 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;

- d reports relating to items when the meeting was open to the public; and
- e records of decisions made by the executive in the form prescribed by regulations.

#### **4.2.9 Background papers**

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

4.2.9.1 When a copy of the whole or part of a report for a meeting is made available for inspection by the public, the proper officer (the director responsible for the report) will set out in the 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 this does not include published documents, or documents which disclose exempt or confidential information (as defined by law and set out at section 4.2.11 below).

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

4.2.9.2

- a The council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.
- b In respect of meetings of an executive decision-making body only, at least one copy of each of the background papers included in that list must be available for public inspection at the designated office and on the council's website from the time when copies of the report are made available to the public.

#### **4.2.11 Exclusion of access by the public to meetings**

4.2.11.1 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. Confidential information is either information given to the council by a government department upon terms which forbid the disclosure of the information to the public, or information whose disclosure to the public is prohibited by or under any enactment or by an order of a court.

4.2.11.2 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 and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Exempt information is categorised as:

- 1 Information related to any individual;
- 2 Information which is likely to reveal the identity of an individual;

- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice of by virtue of which requirements are imposed on a person ; or
  - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

4.2.11.3 Information falling within category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- a. the Companies Acts (as defined in section 2 of the Companies Act 2006)
- b. the Friendly Societies Act 1974
- c. the Friendly Societies Act 1992
- d. the Co-operative and Community Benefit Societies and Credit Unions Act 1965 to 1978
- e. the Building Societies Act 1986
- f. the Charities Act 2011

“Financial or business affairs” includes contemplated, as well as past or current, activities

#### **4.2.12 Exclusion of access to reports**

4.2.12.1 If in the opinion of the monitoring officer any report contains confidential information ( as defined at paragraph 4.2.11.1) or exempt Information ( as defined at paragraph 4.2.11.2), and will or is likely to be considered during that part of the meeting from which the public are excluded, those reports will not be published with the agenda for the meeting. Such reports will be marked “Not for publication” and will include a statement of the category of information contained within the report which will or is likely to give rise to the exclusion of the public from the meeting.

4.2.12.2 When a report is to be considered at a meeting which in the opinion of the monitoring officer contains confidential information as defined at paragraph 4.2.11.1, the chairman will ask the public to leave the meeting during consideration of that item.

4.2.12.3 When a report is to be considered at a meeting which in the opinion of the monitoring officer contains exempt information as defined at paragraph 4.2.11.2, the chairman will invite the members present at the meeting to consider whether in the circumstances the public press and members who are not members of the decision making body should be excluded and, if the meeting agrees, the chairman will ask those in attendance to leave the meeting during consideration of that item..

4.2.12.4 No recording devices of any description may be left in the chamber or room when members of the public and press are excluded in accordance

with these access to information procedure rules relating to exempt and confidential information.

#### **4.2.13 Application of rules to executive decisions**

- 4.2.13.1 Rules 4.2.13 – 4.2.21 apply to the public meetings of cabinet and its committees or other executive decision maker in addition to rules 4.2.2-4.2.12 above. These are drawn from the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations).
- 4.2.13.2 The requirements in these rules do not apply to meetings whose sole purpose is for officers to brief councillors.

#### **4.2.14 Private meetings of an executive decision-making body**

- 4.2.14.1 Where an executive decision-making body intends to hold a private meeting (meaning a meeting or part of a meeting of that body from which the public are excluded in accordance with paragraph 4.2.11) then subject to paragraphs 4.2.16 (general exception) and paragraph 4.2.17 (special urgency):
- a at least 28 clear calendar days before the private meeting a notice of that intention must be made available at the designated office and on the council's website, including a statement of reasons for the meeting to be held in private;
  - b at least five clear working days before such a meeting a further notice of that intention must be made similarly available, including a statement of reasons for it to be held in private, details of any representations received about why the meeting should be open to the public and a statement of its response to any such representations.
- 4.2.14.2 Where the date by which such a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where agreement has been obtained that the meeting is urgent and cannot reasonably be deferred from:
- a the chairman of the relevant overview and scrutiny committee, or
  - b if there is no such person or that chairman is unable to act, the chairman of the council, or
  - c in the absence of both, the vice-chairman of the council.
- 4.2.14.3 As soon as reasonably practicable after agreement has been obtained under 4.2.14.2, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at the designated office and on the council's website.
- 4.2.14.4 The head of paid service, section 151 officer, and the monitoring officer, and their nominees are entitled to attend any meeting of the cabinet and its committees. The cabinet may not meet formally unless the proper officer has been given reasonable notice that a meeting is to take place in accordance with these rules.

- 4.2.14.5 A private cabinet meeting may only take place in the presence of the monitoring officer or their nominee.
- 4.2.14.6 Notice of private meetings of the cabinet, or a joint executive committee, shall be served on the chairman of the relevant scrutiny committee at the same time as notice is served on members of the cabinet. Where a scrutiny committee does not have a chairman, the notice shall be served on all the members of that committee.
- 4.2.14.7 Where a matter under consideration at a private meeting of the cabinet, or a joint cabinet committee, is within the remit of a scrutiny committee, the chairman of the relevant scrutiny committee or in their absence the vice-chairman may attend and speak at that private meeting with the consent of the person presiding.

#### **4.2.15 Publicity in connection with executive key decisions**

- 4.2.15.1 Where a decision maker intends to make a key decision, that decision must not be made until a document has been published 28 clear calendar days before the decision and made available for public inspection at the council's designated office and on its website stating:
- a that a key decision is to be made
  - b the matter in respect of which a decision is to be made
  - c where the decision taker is an individual, their name and title, if any, and where the decision taker is a decision making body, its name and a list of its members;
  - d the date on which, or the period within which, the decision is to be made;
  - e a list of the documents submitted to the decision taker for consideration in relation to the matter in respect of which the key decision is to be made;
  - f the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - g that other documents relevant to those matters may be submitted to the decision maker; and
  - h the procedure for requesting details of those documents (if any) as they become available.

#### **4.2.16 General exception**

- 4.2.16.1 Subject to 4.2.17, where the publication of the intention to make a key decision under 4.2.15 is impractical, the decision may still be taken if:
- a the monitoring officer has informed the chairman of the relevant overview and scrutiny committee, or, if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
  - b the monitoring officer has made copies of that notice available for public inspection at the designated office and published it on the council's website; and
  - c at least five clear working days have elapsed since the monitoring officer complied with (a) and (b).

- 4.2.16.2 As soon as reasonably practicable after paragraph 4.2.16.1 has been complied with, a notice setting out the reasons why compliance with paragraph 4.2.14 is impracticable must be published on the council's website.

#### **4.2.17 Special urgency**

- 4.2.17.1 If because of the date by which a decision must be taken, paragraph 4.2.16 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, has obtained the agreement of:

- a the chairman of the relevant scrutiny committee; or
- b if there is no chairman of the relevant scrutiny committee or in his /her absence, the chairman of the council, or
- c in the absence of the chairman of the relevant scrutiny committee or the chairman of the council, the vice-chairman of the council

that the making of the decision is urgent and cannot reasonably be deferred.

- 4.2.17.2 As soon as reasonably practicable after agreement has been obtained in accordance with paragraph 4.2.17.1 a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at the designated office and published on the council's website. Decisions taken by way of special urgency will not be subject to call-in.

#### **Reports to Council on executive decisions**

- 4.2.17.3 The leader will report to ordinary meetings of Council meeting on executive decisions taken since the preceding meeting of Council. The report will include the number of decisions taken under the provisions of section 4.2.11, 4.2. 16 and 4.2.17 and provide a summary of the matters in respect of which those decisions were taken.

#### **4.2.18 Report to Council where it is considered the key decision procedure has not been followed**

- 4.2.18.1 If an overview and scrutiny committee thinks that an executive decision has been made which was a key decision but not treated as such the committee may require the cabinet to submit a report to the council meeting within such reasonable time as the committee specifies.

- 4.2.18.2 The report to the council meeting will set out the decision and the reasons for the decision, the decision maker, and if the cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

#### **4.2.19 Record of executive decisions**

- 4.2.19.1 As soon as reasonably practicable after an executive decision is made the monitoring officer, or if the monitoring officer was not present at the meeting, the person presiding, will produce a written statement of every such decision.

That statement will include:

- a a record of the decision and date it was made and by whom;
- b the reasons for the decision
- c any alternative options considered and rejected; and
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted.

#### **4.2.20 Inspection of documents following executive decisions**

4.2.20.1 Subject to 4.2.18, as soon as is reasonably practicable after an executive decision has been made, the monitoring officer will make available for inspection by the public at the designated office and on the council's website the above written statement (and any report or part of a report relevant to the decision and considered by the executive decision-maker). A copy of these documents must be supplied on request to a newspaper on payment of postage, copying and other necessary charge.

4.2.20.2 No written statement, report or document will be made available for public inspection which contains confidential information or where disclosure would give rise to the disclosure of exempt information, both as defined above.

#### **4.2.21 Additional rights of access to documents for members of overview and scrutiny committees**

Subject to paragraph 4.2.23 below, a member of an overview and scrutiny committee (and a member of a scrutiny task and finish group) will be entitled to a copy of any document which is in the possession or control of the cabinet and contains material relating to

- a any business which has been transacted at a public or private meeting of the cabinet or executive decision-making body; or
- b any executive decision made by an individual member of the cabinet,
- c any executive decision made by an officer on behalf of the cabinet.

That copy document must be provided as soon as reasonably practicable and in any event no later than 10 clear days after the request is received on behalf of the cabinet.

There is no entitlement under 4.2.24 to disclose:

- a any document that is in draft form;
- b any document or part of a document that contains exempt or confidential information unless that information is relevant to:

- (i) an action or decision the scrutiny member is reviewing or scrutinising or
- (ii) any review contained in any programme of work of an overview and scrutiny committee.; or

c the advice of a political adviser or assistant (if any).

Where it is determined that a member of an overview and scrutiny committee is not entitled to a copy of a document (or part of one), that committee must be provided with a written statement setting out the reasons for that decision.

#### **4.2.22 Additional rights of access for councillors**

4.2.22.1 Subject to paragraphs 4.2.22.4 and 4.2.22.5 below, any document which is in the possession of the cabinet and which contains material relating to any business to be transacted at a public meeting must be available for inspection by any member of the council.

4.2.22.2 Any document which is required by the preceding paragraph to be available for inspection by any member of the council must be available for inspection for at least 5 clear working days before the meeting except that:

- i. where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and
- ii. where an item is added to the agenda at shorter notice a document that would be required to be available under paragraph 4.2.22.1 in relation to that item must be available for inspection when the item is added to the agenda;

4.2.22.3 Subject to 4.2.22.4 and 4.2.22.5 below, any document which is in the possession of the cabinet and which contains material relating to:

- i. any business to be transacted at a private meeting; or
- ii. any decision made by an individual cabinet member or officer in accordance with the council's executive arrangements;

must be made available for inspection by any member of the council within 24 hours of the conclusion of the meeting or an executive decision having been made by an individual cabinet member or officer;

4.2.22.4 Paragraphs 4.2.22.1, 4.2.22.2, and 4.2.22.3 do not require a document to be available for inspection if it appears to the monitoring officer that it discloses exempt information unless the exempt information contained in the document is information of a description falling within:

- (i) paragraph 3 of Schedule 12A to the Local Government Act 1972 (financial or business affairs)(except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
- (ii) paragraph 6 of Schedule 12A to the Local Government Act 1972 (notices being given or directions to be made);

4.2.22.5 Paragraphs 4.2.22.1 and 4.2.22.3 shall not apply to a document or part of a document where it appears to the monitoring officer that compliance with those rules in relation to that document or part of a document would involve the disclosure of advice provided by a political adviser or assistant;

4.2.22.6 The rights of a member to access information as set out in paragraphs 4.2.22.1 and 4.2.22.3 are additional to any common law rights they may have.

**4.2.24 Inspection and supply of documents**

- 4.2.24.1 Any document required by the regulations to be open to inspection by members of the public must be available for inspection at all reasonable hours at the designated office, and on the council's website.
- 4.2.24.2 Any person entitled to inspect a document may make a copy of it, or require the council to supply a copy on payment of postage, copying or other necessary charge for transmission.
- 4.2.24.4 Any member of the public may, in any publicly available medium, reproduce or provide commentary in relation to a document supplied or made available to that person unless doing so infringes copyright (other than that of the council).

**Additional requirements relating to the recording and availability of council decisions made by officers**

This procedure rule is in addition to and without prejudice to any other requirement for officers to record and make available decisions they make and applies to decisions made by officers of the Council which are made under either:

- (a) a specific delegated authorisation; or
- (b) a general delegation to officers to take such decisions and the effect of the decision is to:
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which has a material effect on the budget.

For the purposes of these rules:

- (a) specific express authorisation's are those decisions which contain a delegation from council, , their committees or sub-committees ;
- (b) general authorisations to officers are those set out in the council's scheme of delegation; and
- (c) 'material effect' is deemed to be in excess of £50k.

Officers will reasonably determine whether the decisions they make affect the rights of an individual having regard to all relevant factors including the guidance provided by the government which suggests that this would involve a change to an individual's legal rights and that these decisions do not include decisions taken pursuant to an existing framework of rights.

A record of decision to which this rule applies will, as a minimum, contain the following information:

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where the decision is made pursuant to a specific express authorisation, the name of any member who has declared a conflict of interest in relation to the decision.

As soon as reasonably practicable following the record of decision being made it will be available for inspection, along with any background papers, by members of the public:

- (a) at all reasonable hours at the council's principal offices;
  - (b) on the council's web site; and
  - (c) by such other means as the council considers appropriate, if any
- and this extends to any record of decision that falls within the paragraph below.

The requirements of this section do not apply to any decision made by an officer where, other than under the Openness of Local Government Bodies Regulations 2014, there is a statutory obligation to produce a written record of the decision that includes the date of the decision, a record of the decision and the reasons for the decision.

Nothing in this rule requires or authorises the making available of confidential or exempt information.

## Section 3 - The budget and policy framework rules

### 4.3.1 The budget and policy framework

- 4.3.1.1 Council is responsible for the adoption of items within the budget and policy framework as set out in the [functions scheme \(part 3 section 1\)](#) and the cabinet is responsible for implementing them.

### 4.3.2 Process for developing framework items

- 4.3.2.1 The cabinet will publicise a timetable for making proposals to Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals.
- 4.3.2.2 The chairmen of the overview and scrutiny committees shall take steps to ensure that the relevant committee work programmes include any such plan, strategy or budget to enable scrutiny members inform and support the process for making cabinet proposals to Council in terms of the adoption of any item that forms part of the framework, including providing constructive challenge to the responsible cabinet member on policy proposals and exploring options for future policy development.
- 4.3.2.x The cabinet shall have regard to such recommendations and other appropriate comments as are made to it in drawing up or amending draft proposals for submission to Council, and its report to Council shall reflect those recommendations and comments and the cabinet's response to them
- 4.3.2.3 The cabinet will determine the methods to be used to publicise the timetable to ensure that the appropriate consultees are informed about the process and the timetable for adoption of any such plan, strategy or budget. The consultation period shall, in each instance, normally be not less than four weeks unless the requirements of any statutory timetable or other council deadline make this impracticable.
- 4.3.2.4 Budget consultees should include parish councils, health partners, the schools forum, business ratepayers, council taxpayers, the trade unions, political groups on the council, the overview and scrutiny committees and such other organisations and persons as the leader shall determine.
- 4.3.2.5 Following consultation and having had regard to the responses to the consultation, the cabinet will draw up firm proposals for the plan, strategy or budget under consideration for recommendation to Council.
- 4.3.2.6 The leader or relevant cabinet member will report the recommendations of cabinet to Council for any such plan, strategy or budget. The report from the cabinet to Council recommending the adoption of any of the strategies and plans that are part of the budget and policy framework will include a summary of the responses to consultation including scrutiny responses.
- 4.3.2.7 In reaching a decision, Council may adopt the cabinet's proposals, amend them, refer them back to the cabinet for further consideration, or in principle, substitute its own proposals in their place. Council should ensure that it takes into account

the advice of its officers to ensure that any decision is properly informed by professional advice.

- 4.3.2.x Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is being proposed, members making such an amendment must have consulted with the relevant director to determine the context and possible consequences of the proposal and have secured confirmation from the chief finance officer that the action proposed is achievable before submitting the amendment. (see council and committee procedure rules 4.1.16.x1 and x2)
- 4.3.2.x Where an alternative budget is being proposed, the proposing group or member must have presented their proposals to the overview and scrutiny committees (in accordance with paragraph 4.3.2.2 above) and secured confirmation from the chief finance officer that the alternative budget meets statutory requirements at least six clear working days before the meeting of Council at which the item is to be considered.
- 4.3.2.8 If Council accepts the recommendations of cabinet without amendment, Council may make a decision which has immediate effect.
- 4.3.2.9 If Council rejects or amends the cabinet's recommendation or substitutes alternative or additional proposals in place of the cabinet's recommendations, one of the following procedures will be followed:  
Either:
- a) where an amendment to a draft plan or strategy, or to the budget has been submitted, the leader may indicate, on behalf of the cabinet, that they accept the amendment; in these circumstances, the amendment shall be regarded as incorporated in the draft plan or strategy before Council and Council's decision may take immediate effect; or
  - b) immediately prior to the close of the meeting the chairman of the council will adjourn the meeting until a date (not less than 10 working days thereafter) to be agreed by the leader. The leader may agree that the matter be deferred to the next meeting of Council. At the reconvened or next meeting Council will consider the matter again.
- 4.3.2.11 At least five clear working days before the date on which the adjourned or next meeting is to be reconvened, the leader will provide a further report to Council in which he will set out the cabinet's response to the Council's proposals. That report must address all relevant issues and in particular, must include advice on the financial and legal implications.
- 4.3.2.12 The leader may:
- a submit a revision of the draft budget plan or strategy with the cabinet's reasons for any amendments and any advice from officers for Council to consider
  - b inform Council of any disagreement the cabinet has with Council's amendments or substitute proposals and the cabinet's reasons for such disagreement
  - c agree any in principle decisions of Council in whole or in part

- 4.3.2.13 If the leader of the council fails to agree a date for the reconvened meeting of council or that the matter may be deferred to the next meeting, the chairman of the council shall set the date of the reconvened meeting or decide that the matter be deferred to the next meeting.
- 4.3.2.14 At the reconvened or next meeting, Council may approve the cabinet's recommendation or approve a different decision that does not accord with the recommendation of the cabinet.
- 4.3.2.15 The decision shall then be made public and shall be implemented immediately.

### **4.3.3 Decisions outside the budget or policy framework**

- 4.3.3.1 Subject to the virement arrangements in the [financial procedure rules \(section 4.7.18\)](#), the cabinet, a committee of the cabinet, cabinet members, or officers may only take decisions that are in line with the budget and policy framework. If any of these bodies want to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by Council unless it is an urgent decision as defined in these budget and policy framework rules.
- 4.3.3.2 If the cabinet, a committee of the cabinet, a cabinet member or officer want to make such a decision, they shall take advice from the chief executive, monitoring officer and chief finance officer as to whether the decision they want to take would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of any of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body to Council for decision, unless the decision is a matter of urgency in which case the provisions relating to urgent decisions apply as defined in these budget and policy framework rules.

### **4.3.4 Urgent decisions outside the budget or policy framework**

- 4.3.4.1 The cabinet may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. The decision may only be taken:
- a if it is not practical to convene a quorate Council meeting; and
  - b if it is taken by cabinet collectively; and
  - c if the chairman of the relevant overview and scrutiny committee agrees that the decision is a matter of urgency.
- 4.3.4.2 The reason why it is not practical to convene a Council meeting must be clear and noted on the record of the decision.
- 4.3.4.3 The chairman of the relevant overview and scrutiny committee's agreement must be noted on the record of the decision.
- 4.3.4.4 In the absence of the chairman of the relevant overview and scrutiny committee, the consent of the chairman of the council, and if they are unavailable or unable to act, the vice-chairman of the council, will suffice.

4.3.4.5 Following the decision, the cabinet will provide a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **4.3.5 In year changes to the budget and policy framework**

4.3.5.1 Any decisions that involve an in year change to the budget and policy framework must be approved or adopted by Council unless:

- a It is an urgent decision as provided for in these budget and policy framework rules
- b It will result in the closure or discontinuance of a service or part of service to meet immediate budgetary constraint
- c It is necessary to ensure compliance with the law, ministerial direction or government guidance
- d It relates to the policy framework and is in respect of a policy which would normally be agreed annually by Council following consultation, but where the existing policy does not provide for the matter under consideration
- e It is within the scope of a specific delegation Council has previously agreed
- f It is otherwise within the financial procedure rules

#### **4.3.6 Call-in of decisions outside the budget and policy framework**

4.3.6.1 Where the relevant overview and scrutiny committee is of the opinion that a decision has been taken or is likely to be taken by the cabinet, a committee of the cabinet or a cabinet member that is contrary to or not wholly in accordance with the budget and policy framework, that committee shall seek advice from the chief executive, the monitoring officer and the chief finance officer.

4.3.6.2 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was contrary to or not wholly in accordance with the budget and policy framework, a report will be prepared and presented to Council.

4.3.6.3 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was not contrary to or was wholly in accordance with the budget and policy framework, a report will be prepared and presented to the relevant overview and scrutiny committee.

4.3.6.4 If the decision has yet to be or has been made but not implemented, and a report is presented to council stating that the decision is one that is contrary to or not wholly in accordance with the budget and policy framework, no further action will be taken in respect of that decision or its implementation until Council has met and considered the matter. Council shall meet within 10 days of the submission of a request for advice by the relevant overview and scrutiny committee to the chief executive, chief finance officer or monitoring officer.

## Section 4 - Cabinet rules

### 4.4.1 The cabinet

4.4.1.1 The leader and the cabinet comprise the executive of the council. The leader is also the chairman of cabinet meetings. In his or her absence, the deputy leader chairs meetings of the cabinet.

### 4.4.5 Cabinet meetings – when and where?

4.4.5.1 The cabinet will meet in accordance with a programme of meetings and at a place and time to be agreed by the leader.

### 4.4.6 Public and private meetings of the cabinet

4.4.6.1 There is a presumption that cabinet meetings will be held in public in accordance with the council's principles of openness in decision making set out in [part 2 article 11](#) of this constitution. The [access to information rules in section 2 of this part](#) of the constitution set out the requirements covering public and private meetings.

### 4.4.7 Quorum

4.4.7.1 The quorum of the cabinet is three.

### 4.4.8 Who may attend and speak at cabinet?

4.4.8.1 When a cabinet meeting is held in public any person is permitted to attend. The press, public, and other members in attendance, can be excluded in accordance with the access to information rules (part 4, section 2).

4.4.8.2 In addition the following rules apply:

- a members of the public and elected members who have submitted a question for cabinet in accordance with 4.4.11 have the right to attend to ask their question and a supplementary
- b where relevant to the agenda, the chairmen of the overview and scrutiny committees (or in their absence their vice chairmen) have the right to attend cabinet meetings for the purpose of presenting any recommendations from their committee
- d group leaders have the right to attend cabinet meetings for the purpose of reporting the views of their group on any matter under consideration at the meeting
- e ward member(s) have the right to attend and speak at a cabinet meeting where an item relating to an individual ward or a specified group of wards is included in the agenda
- f other members invited to speak at the discretion of the chairman of the meeting.

- 4.4.8.3 Reports shall be presented by the relevant lead cabinet member. In addition, such officers as are required to assist in presenting reports or provide support, advice or information required by the cabinet will attend.
- 4.4.8.4 The chairman shall invite any person in attendance under these rules to speak on an item in order to enable that person to fulfil the purpose of his/her attendance as outlined at [paragraph 4.4.8.2](#) above). Questions from members shall be dealt with in accordance with paragraph XXX. The chairman has responsibility for the conduct of the meeting and the order in which those in attendance will be invited to speak.
- 4.4.8.5 Members of the cabinet will sit at the cabinet table and all other invitees and attendees will be accommodated separately so as to make it clear to the public and others in attendance which person is fulfilling which role.
- 4.4.8.6 The chairman of the cabinet meeting will at the commencement of the meeting explain who is attending, in what capacity and for what purpose. The minutes will also reflect this.
- 4.4.8.7 The leader will agree with the monitoring officer who should be invited to which meeting of the cabinet and governance services will manage the process of invitation and attendance.
- 4.4.8.8 In general the meetings of the cabinet are to be used as a means of taking final soundings from those attending on an issue for decision and are not the forum for detailed questioning or scrutiny of decisions being taken.

#### **4.4.9 Decision taking**

- 4.4.9.1. All decisions, notwithstanding the subject matter or who takes them, will be made having regard to the [principles of decision making \(section 2 part 11\)](#) and in accordance with the [access to information rules as they apply \(section 4 part 2\)](#).
- 4.4.9.2 Where the leader, any member of the cabinet, or an officer taking an executive decision has a conflict of interest (whether a disclosable pecuniary interest or an other interest) such interest will be disclosed and recorded and the individual making the disclosure will take no further part in the decision-making relating to that item.
- 4.4.9.3 Where an individual is unable to take a decision because of a conflict of interest the decision will be taken by the leader, or if the leader has a conflict of interest, the cabinet. If the cabinet is inquorate because of a conflict of interest then the monitoring officer will be instructed to seek an appropriate dispensation.
- 4.4.9. The leader, the cabinet and individual cabinet members may meet informally with officers to receive information and briefings but no cabinet decisions will be taken at any such informal meeting.

#### **4.4.10 Form of business**

- 4.4.10.1 The cabinet will conduct the following business at its meetings:
- a Elect a person to preside at the meeting if the leader and deputy leader are not present

- b Receive any apologies for absence
- c Receive any declarations of interest, if any
- d Consider and approve the minutes of the last meeting (the only part of the minutes which may be discussed is their accuracy; once approved the chairman will sign them as a correct record)
- e Receive and respond to any questions from members of the public submitted in accordance with 4.4.11
- f Receive and respond to any questions from elected members submitted in accordance with 4.4.12
- g Consideration of matters referred to the cabinet or reports from an overview and scrutiny committee or Council
- h Consideration of reports from the statutory officers

Any other matters set out in the agenda for the meeting

4.4.10.2 The agenda for the cabinet meeting shall specify all the business to be conducted in accordance with the [access to information rules \(part 4 section 2\)](#) and shall identify any matter which is a key decision.

4.4.10.3 Reports to the cabinet will normally appear in the name of the cabinet member and incorporate relevant advice from appropriate officers. Exceptions shall include a report from a statutory officer. The author of a report will ensure that draft reports are the subject of consultation with the relevant director, any relevant ward members or other consultees, and in all cases the director of resources and the monitoring officer or their authorised nominee.

4.4.10.4 All reports to the cabinet and the associated record of decisions made (whether on a collective or an individual basis) shall accord with the council's corporate reporting style and associated systems so as to maintain transparency and probity in decision making.

#### **4.4.11 Questions from the public**

4.4.11.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the public who live or work in Herefordshire. This period may be varied at the discretion of the chairman.

4.4.11.2 A question may only be asked if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Monday where the meeting is on a Thursday). Each question must give the name and address of the questioner (although only the name and town will be published). Copies of all accepted questions shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.

4.4.11.3 Questions will be answered in the order in which they are received.

4.4.11.4 A member of the public may submit only one question at any meeting of the council, to a maximum of six in any municipal year.

4.4.11.5 The monitoring officer is authorised to reject a question in accordance with the following criteria:

- i) it is longer than 70 words;
- j) it is in multiple parts;
- k) it is not about a matter for which the cabinet has a responsibility or an item on the agenda;
- l) it is defamatory, frivolous or offensive;
- m) it is substantially the same as or similar to a question which has been put at a meeting of Council, a committee of council, or cabinet in the past six months;
- n) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
- o) it is from a council employee and the question is connected to their employment;  
or
- p) it relates to a planning application or licensing application.

- 4.4.11.6 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.
- 4.4.11.7 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf
- 4.4.11.8 A questioner who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the 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 4.4.11.5 above, or if the question takes the form of a statement, or more than a minute to ask.
- 4.4.11.9 An answer to a question or a supplementary question will be provided by the cabinet member with the relevant portfolio. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.
- 4.4.11.10 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question

#### **4.4.12 Questions from members**

- 4.4.12.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the council. This period may be varied at the discretion of the chairman.
- 4.4.12.2 A member may ask the chairman a question relating to a matter of the agenda or otherwise within the remit of cabinet only if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g.. 5.00pm on Monday where the meeting is on a Thursday).
- 4.4.12.3 The monitoring officer is authorised to reject a question in accordance with the following criteria:

- i) it is longer than 70 words;
- j) it is in multiple parts;
- k) it does not relate to the remit of cabinet or an item on the agenda;
- l) it is defamatory, frivolous or offensive;
- m) it is substantially the same as or similar to a question which has been put at a meeting of Council, cabinet or other committee in the past six months;
- n) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
- o) it is related to an employment matter; or
- p) it relates to a planning application or licensing application

4.4.12.4 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

4.4.12.5 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, the chairman will put the question on their behalf.

4.4.12.6 A member who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the 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 [4.4.12.3](#) above, or if the question takes the form of a statement, or more than a minute to ask.

4.4.12.7 An answer to a question or a supplementary question may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, or the time allowed for councillors' questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

#### **4.4.13 Leader's report**

4.4.13.1 The leader will submit a report from the cabinet to each ordinary meeting of council (other than the budget meeting) on which they may be questioned and if so, answer. This will report the work of the cabinet since the last report and will include:

- a A summary of those executive decisions taken by the cabinet, individual cabinet members, and joint executive committees and other activities of the cabinet since the previous Council meeting;
- b Any recommendations of the cabinet in respect of the budget and policy framework;
- c Any report to Council required by an overview and scrutiny committee; and
- d A summary and particulars of any urgent decision made under paragraph [4.4.15 \(urgent decisions\)](#).

#### **4.4.14 Decisions subject to call in by scrutiny committees**

4.4.14.1 Other than decisions taken under the urgency provisions of the access to information rules (part 4 section 2) and recommendations made to Council on budget and policy framework items, cabinet decisions made but not implemented may be called-in in accordance with the [scrutiny rules \(part 4 section 5\)](#).

#### **4.4.15 Individual cabinet member or officer decisions**

4.4.15.1 Where individual cabinet members or officers make decisions on any matter which is an executive function they must comply with the provisions in the [access to information rules \(part 4 section 2\)](#).

#### **4.4.16 Urgent decisions**

4.4.16.1 There may be an urgent need to take a key decision where 28 days' notice of it is impracticable in the circumstances.

4.4.16.2 In that event the key decision may only be made in accordance with the general exception or special urgency provisions in the [access to information rules \(part 4 section 2\)](#).

## Section 5 - Scrutiny rules

### 4.5.1 Arrangements for overview and Scrutiny

4.5.1.1 The scrutiny arrangements for the council are as laid out in part 2 article 6 and part 3 of the functions scheme. The council has decided that it will have three overview and scrutiny committees which will have responsibility for all the overview and scrutiny functions on behalf of the council as set out in part 7.

### 4.5.2 Who may sit on an overview and scrutiny committee?

4.5.2.1 All councillors except cabinet members may be members of an overview and scrutiny committee. No member may be involved in scrutinising a decision in which they have been directly involved, or for a decision in the cabinet portfolio they provide support to as a cabinet support member.

### 4.5.3 Co-option

4.5.3.1 An overview and scrutiny committee may co-opt a maximum of two non-voting people as and when required, for example for a particular meeting or to join a task and finish group. Any such co-optees will be agreed by the committee having reference to the agreed workplan and/or task and finish group membership.

4.5.3.3 The committee with responsibility for education shall include the following co-opted education representatives, as appointed by Council:

- one representative as nominated by the diocese of Hereford
- one representative as nominated by the archdiocese of Cardiff
- one parent governor as elected from the primary school sector
- one parent governor as elected by the secondary school sector
- one parent governor as elected by the special school sector

These education co-optees may vote on items relating to education; on other items on the committee agenda they may speak but not vote.

### 4.5.4 Quorum

4.5.4.1 The quorum for an overview and scrutiny committee is one quarter of the voting membership of the committee, or three members, whichever is the greater. If the number is a part number it is rounded up.

### 4.5.5 Task and finish groups

4.5.5.1 An overview and scrutiny committee may appoint a task and finish group for any scrutiny activity within the committee's agreed work programme. A committee may determine to undertake a task and finish activity itself as a spotlight review where such an activity may be undertaken in a single session; the procedure rules relating to task and finish groups will apply in these circumstances.

4.5.5.2 The relevant overview and scrutiny committee will approve the scope of the activity to be undertaken the membership, chairman, timeframe, desired outcomes and what will not be included in the work. It will be a matter for the task and finish group to determine lines of questioning, witnesses (from the council or wider community) and evidence requirements.

In appointing a chairman of a task and finish group the committee will also determine, having regard to the advice of the council's monitoring officer and statutory scrutiny officer, whether the scope of the activity is such as to attract a special responsibility allowance.

- 4.5.5.3 The task and finish groups will be composed of at least two members of the relevant scrutiny committee, other councillors, and may also include, as appropriate, co-opted people with specialist knowledge and or expertise to support the task. It is unlikely that voting will be necessary in task and finish groups. However, should there be a need to vote, for example on the formation of recommendations within a task and finish group report, for the avoidance of doubt any councillor appointed to a task and finish group will have the right to vote. No co-opted members of task and finish groups will have voting powers (unless they are the education co-optees listed in 4.5.3.3 above). Matters put to the vote will be determined on a simple majority with the task and finish group chair having a casting vote.
- 4.5.5.4 To assist in the identification of members for task and finish groups, the chairmen of the scrutiny committees will ensure that group leaders are provided with the committee work programme, including potential task and finish activity. Group leaders will advise scrutiny chairmen of those members suitable for such task and finish activity.
- 4.5.5.5 Task and finish groups, as working groups of the committee, are not subject to the requirements of political proportionality.
- 4.5.5.6
- 4.5.5.7 Officer support will be provided to each task and finish group the level of which will be dependent on the matter being considered.
- 4.5.5.8 As working groups of the committee, the task and finish groups will not be making decisions, and have the discretion to meet either in public or in private. Where meeting in private there is no right of attendance by any member who is not a member of a task and finish group.
- If a task and finish groups chooses to meet formally in public they may exclude the press public including other members in attendance from any such meeting in accordance with the Access to Information Rules (Part 4 section 2).
- 4.5.5.9 Task and finish groups will report their findings/outcomes/recommendations to the relevant overview and scrutiny committee who will decide if the findings/outcomes/recommendations should be reported to the cabinet or elsewhere.
- 4.5.5.10 At the first meeting of each task and finish project, the task and finish group will finalise:
- expert/specialist support required
  - officer input required
  - lines of questioning
  - evidence requirements
  - which aspects of the task are to be undertaken in private or public.

- 4.5.5.11 Any changes proposed by the task and finish group to the scope, timeframe or outcomes stipulated by the committee must be approved by the statutory scrutiny officer following consultation with the chairman of the relevant scrutiny committee and will be reported to the relevant overview and scrutiny committee.
- 4.5.5.12 In the event of a task and finish group being unable to agree recommendations or findings on a particular matter, a report will be made to the relevant overview and scrutiny committee for its consideration.

#### **4.5.6 Appointment of chairman and members of the overview and scrutiny committees**

- 4.5.6.1 The chairmen and vice chairmen of the overview and scrutiny committees are appointed at the annual meeting of Council. Council shall determine the number of members of the overview and scrutiny committees annually or as required from time to time in compliance with the statutory rules on proportionality. The members of the committee shall be appointed by the chief executive on nomination of the group leaders.

#### **4.5.7 Meetings of overview and scrutiny committees**

- 4.5.7.1 The overview and scrutiny committees will meet in accordance with the council's schedule of meetings, subject to the chairman's power to cancel or postpone meetings in case of emergency or where there is no business. Where an overview and scrutiny committee feels it is appropriate to hold additional meetings it may do so. The chairman of an overview and scrutiny committee may also call additional meetings if they consider it necessary or appropriate. In so doing, the chairman shall have regard to the advice of the council's monitoring officer and statutory scrutiny officer.

#### **4.5.8 Programme of work of overview and scrutiny committees**

- 4.5.8.1 The overview and scrutiny committees will be responsible for setting their own work programmes. In setting their work programme an overview and scrutiny committee shall have regard to the resources (including officer time) available.

#### **4.5.9 Overview and scrutiny committee agendas**

- 4.5.9.1 At each of its ordinary meetings an overview and scrutiny committee shall consider the following business, where appropriate:

- a) minutes of the last meeting
- b) questions from members of the public
- c) questions from members of the council
- d) any matter called-in in accordance with paragraph 4.5.16 below
- e) a review of its work programme, including requests received for inclusion of items from members of the public, ward members, cabinet or Council
- f) consideration of any budget and policy framework items
- g) any response to reports of the overview and scrutiny committee

- h) any item requested to be placed on the agenda by a member of the committee
- i) any councillor call for action
- j) any report from a task and finish group any business otherwise set out on the agenda for the meeting including items as identified in the work programme.

4.5.9.2 Any member may give notice to the statutory scrutiny officer that they wish an item relevant to the functions of a committee and not excluded by law to be included in the agenda and discussed at a meeting of that committee. On receipt of such a request the statutory scrutiny officer shall ensure that it is included in the agenda for and discussed at a meeting of the relevant committee.

4.5.9.3 An overview and scrutiny committee shall also respond, as soon as its work programme permits, to requests from Council and from the cabinet to review particular areas of council performance or policy. On receipt of any such request from cabinet an overview and scrutiny committee shall firstly consider whether it wishes to conduct the review as requested. Where it does so, and in response to any request from Council, an overview and scrutiny committee shall conduct the review as requested and report its findings and any recommendations back to the cabinet and/or Council.

#### **4.5.10 Councillor call for action**

4.5.10.1 Any member of the council shall be entitled to give notice to the statutory scrutiny officer if they wish an item relating to a councillor call for action to be included on the agenda for discussion at the next available meeting of the relevant overview and scrutiny committee.

4.5.10.2 On receipt of such a request and subject to it falling within the statutory definition of a matter that can be the subject of a councillor call for action and it meeting the procedural and other requirements set out in the councillor call for action code (Part 5 section 9) the statutory scrutiny officer shall ensure that it is included on the next available agenda of the committee.

4.5.10.3 Further guidance in respect of the councillor call for action is contained in Part 5 section 9.

#### **4.5.11 Policy review and development**

4.5.11.1 The role of an overview and scrutiny committee in relation to the development of the council's budget and policy framework is found in the rules (part 4 section 3).

4.5.11.2 In relation to the development of the council's approach to other matters not forming part of its budget and policy framework, an overview and scrutiny committee may make proposals to the cabinet for developments in so far as they relate to matters within its terms of reference.

4.5.11.3 An overview and scrutiny committee may hold or commission inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist it in this process. A committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations.

It may ask witnesses to attend in order to address it on any matter under consideration and may pay to advisers, assessors and witnesses a reasonable fee and expenses for doing so, having regard to the resources (including officer time) available. In determining how to conduct such activities the chairman of a committee should consult with the statutory scrutiny officer.

#### **4.5.12 Reports from the overview and scrutiny committees**

- 4.5.12.1 Following any investigation or review, the committee or task and finish group shall prepare a report. Any report from a task and finish group will first be considered by the relevant overview and scrutiny committee and if adopted will be dealt with in accordance with the following rules.
- 4.5.12.2 If any review is in response to a request from Council, in accordance with paragraph 4.5.9.3 above, the overview and scrutiny committee shall report its findings to Council.
- 4.5.12.3 In all other cases the report will be submitted to the chief executive for consideration by the executive or other body as appropriate. If the recommendations are such that a decision can be taken by an individual cabinet member acting within his/her portfolio in accordance with the functions scheme (Part 3 Section 3), the chief executive shall arrange for that cabinet member(s) to consider the report.
- 4.5.12.4 If the recommendations in an overview and scrutiny committee report are contrary to or not wholly in accordance with the budget and policy framework, the cabinet shall consider the scrutiny recommendations and report the matter with its response to the scrutiny recommendations to Council.
- 4.5.12.5 If the recommendations in the scrutiny report are in line with the budget and policy framework, the cabinet or the cabinet member shall consider the scrutiny recommendations and report their decision to the relevant overview and scrutiny committee.

#### **4.5.13 Making sure that scrutiny reports are considered by the executive**

- 4.5.13.1 On receipt of a report from an overview and scrutiny committee (other than on budget and policy framework items) the chief executive will arrange for the report to be considered either by cabinet or an individual cabinet member as appropriate.
- 4.5.13.2 If any individual cabinet member is minded to reject all of the recommendations in a report from an overview and scrutiny committee, then the matter must be referred to the next meeting of the cabinet to decide its response.
- 4.5.13.3 The chief executive will notify the relevant scrutiny committee of the response of the executive within two months of receipt of the scrutiny report, with the exception of matters relating to statutory health scrutiny and issues relating to crime and disorder scrutiny which require a response from the relevant body within 28 days. If the cabinet or cabinet member wishes to extend the deadline a report will be made to the relevant overview and scrutiny committee explaining why this is considered necessary. Decisions of the executive or Council on any scrutiny recommendations will be recorded in the usual way.

4.5.13.4 Recommendations from scrutiny committee in relation to a budget and policy framework item will be reported to the executive who will have regard to that report, and provide a response to any recommendations within it, in making their recommendation to Council.

#### **4.5.14 Rights and powers of overview and scrutiny committee members**

4.5.14.1 Where an overview and scrutiny committee or task and finish group conducts investigations or reviews and people attend to give evidence or otherwise assist the committee the following principles will apply:

- a that the investigation be conducted fairly and all members of the committee or group be given the opportunity to ask questions of attendees, and to contribute and speak
- b that those assisting the committee by giving evidence be treated with respect and courtesy
- c that the investigation be conducted so as to maximise the efficiency and value of the investigation or analysis.

#### **4.5.15 Members and officers giving account**

4.5.15.1 An overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions, or as provided by statute certain other bodies. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the cabinet, the chief executive, committee chairman, and/or senior officers carrying out functions on the chief executive's behalf to attend before it to explain in relation to matters within its remit regarding:-

- a any particular decision or series of decisions
- b the extent to which the actions taken implement council policy; and/or
- c their performance.

4.5.15.2 It is the duty of those persons to attend if so required.

4.5.15.3 Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chairman of the committee will inform the statutory scrutiny officer. The statutory scrutiny officer shall inform the member or officer in writing normally giving at least ten working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.

4.5.15.4 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then an overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance and/or a substitute as appropriate.

- 4.5.15.5 Unless in exceptional circumstances, any witnesses required to attend any meetings called under paragraphs 4.5.15.1 to 4.5.15.3 and 4.5.16 will be restricted to:-
- a any cabinet member involved in the decision the subject of the call in
  - b any officer who in the view of the chairman of the meeting would be able to supply evidence materially able to assist at the meeting.
- 4.5.15.6 The council has designated the governance services manager as the statutory scrutiny officer who is required to discharge the following functions:
- a to promote the role of the council's overview and scrutiny committees
  - b to provide support to the council's overview and scrutiny committee and the members of the committees
  - c to provide support and guidance to (i) members of the council, (ii) members of the executive of the council, and (iii) officers of the council – in relation to the functions of the council's overview and scrutiny committees
- 4.5.16 Call in**
- 4.5.16.1 "Call in" is a statutory right for members of council to call in a decision of cabinet an individual cabinet member an officer with delegated authority or under joint arrangements after it is made but before it is implemented subject to the following provisions (4.5.15.5, 4.5.16.2, 4.5.16.3 and 4.5.16.8).
- 4.5.16.2 Call in does not apply to cabinet decisions that make recommendations to Council because those decisions will not be implemented in any event until the matter has been considered and agreed by Council.
- 4.5.16.4 When a call in has been triggered, the call in process will be managed by the monitoring officer in consultation with the chairman of the relevant overview and scrutiny committee and the members who have triggered the call in. The chairman of the relevant overview and scrutiny committee will maintain responsibility for the conduct of any meeting at which the decision called in is considered.
- 4.5.16.5 Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:
- a) that there has been inadequate consultation with stakeholders prior to the decision being made;
  - b) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;
  - c) that the decision materially departs from the budget and policy framework;
  - d) that the decision is disproportionate to the desired outcome;
  - e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
  - f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the monitoring officer and the chief finance officer, as appropriate, or has failed to have sufficient regard to that advice;

- g) that the decision exceeds the powers or terms of reference of the decision-maker responsible for the decision; or
- h) that the access to information rules have not been adhered to.

4.5.16.6 Advice should be sought from the monitoring officer on these matters.

4.5.16.7 When a decision is made by the cabinet or an individual cabinet member that decision will be published widely by electronic means. This includes:-

- a displaying it at on the website of the council
- b sending a copy of the decision electronically to all members of the council identifying which scrutiny committee's remit the decision falls within

4.5.16.8 The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of four working days after the date of publication, unless it is called in under these call in rules.

4.5.16.9 To call the decision in a call in notice must be received by 5.00pm on the working day before the implementation date specified on the notice of decision by the monitoring officer (or their nominated officer) in writing or electronically which:

- a clearly states the decision(s) which is/are being called in by reference to the decisions as set out on the decision notice
- b clearly states the grounds for the call in as laid out in rule 4.5.16.5 above as applied to each decision being called-in and the evidence on which the grounds are based
- c is signed by seven elected members of the council (not including co-optees) who are not all members of the same political group. If electronic notification is being used an email in accordance with the requirements of 4.5.16.9 must be submitted by each member supporting the call in.

#### **4.5.17 Limitations of call in**

4.5.17.1 The call in procedure is restricted to any cabinet or individual cabinet member decisions, decisions made by joint committees and decisions made by officers.

4.5.17.2 Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules (Part 4 section 2), that decision will not be subject to call in.

4.5.17.3 The call-in procedure will also not apply where the decision taken needs to be implemented urgently. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public interest.

4.5.17.4 In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the monitoring officer should confirm that as such it is not subject to call in.

- 4.5.17.5 The chairman of the relevant overview and scrutiny committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency.
- 4.5.17.6 The consent to the decision being taken as a matter of urgency will be recorded on the published notice of the decision.
- 4.5.17.7 Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.

#### **4.5.18 Post call in**

- 4.5.18.1 The monitoring officer will determine the validity of the call in as soon as possible. The monitoring officer may, if appropriate, reject a request for call in if, in their opinion, it fails to meet any of the grounds listed in 4.5.16.9 above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate. Examples include but are not limited to:
- a) the cited grounds bear no relevance to the decision that is identified for call-in;
  - b) the requisition cites grounds for which no relevant evidence is produced in support;
  - c) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank form in advance or emailed consent without detailing the grounds and evidence);
  - d) the call-in includes material which could be defamatory;
  - e) the requisition is being used for improper purposes (e.g. to admonish an officer); or
  - f) the decision is in accordance with the advice or recommendations provided to the decision maker by the overview and scrutiny committee.

If the call in is determined not to be valid, the monitoring officer will inform those members submitting the notice of the call in of the reasons for that determination.

- 4.5.18.2 If accepted as valid, the monitoring officer will then advise the original decision maker of the call in.
- 4.5.18.3 The monitoring officer shall then call a meeting of the relevant overview and scrutiny committee on such a day as they shall determine in consultation with the relevant chairman and in any event within ten working days of the monitoring officer accepting the validity of the call In notice, subject to paragraph 4.5.19.
- 4.5.18.4 If, having considered the decision in light of the grounds and evidence for the call in, the relevant overview and scrutiny committee is still concerned about it, then it may refer the decision back to the decision-maker for reconsideration, setting out in writing the nature of its concerns.
- 4.5.18.5 The decision maker shall reconsider any decision referred to them following call-in, take into account any views expressed by the relevant Overview and Scrutiny Committee and may either amend or confirm the original decision or require further specified work to be undertaken before making a final determination.
- 4.5.18.6 If it is alleged that the decision appears to be contrary to or not in accordance with the budget and policy framework, the monitoring officer shall advise the cabinet on that or any other relevant legal issues raised by or in relation to the called in decision. The cabinet shall consider that advice and shall re-consider its decision.

If the matter is outside the budget and policy framework the monitoring officer shall refer the matter to the next Council meeting for consideration or convene an extraordinary meeting of Council whichever may be sooner and in any event within ten working days of the meeting of cabinet.

- 4.5.18.7 Having been referred to the next Council meeting the Council has two options:
- i. amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately; or
  - ii. require the decision maker to reconsider the decision again and refer it to a meeting of the cabinet to be held within five working days of the Council meeting. The cabinet may choose to amend or confirm the decision and there will be no further right of call in.
- 4.5.18.9 If an overview and scrutiny committee or the Council does not meet within the time permitted by these rules or such extended time as may be agreed in accordance with paragraph 4.5.19, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the meeting or expiry of the period in which the meeting should have been held, whichever is the earlier.

#### **4.5.19 Extension of time limit**

- 4.5.19.1 In exceptional circumstances the time limit of ten working days for convening a meeting of an overview and scrutiny committee to consider the called in decision may be extended as agreed by the original decision maker and/or the leader where practical considerations or any unforeseen factor make such an extension appropriate.

#### **4.5.20 Pre decision call in and the forward plan**

- 4.5.21.1 The overview and scrutiny committees should consider the forward plan as the chief source of information regarding forthcoming key decisions.
- 4.5.21.2 An overview and scrutiny committee may identify a forthcoming decision on the forward plan relevant to the remit of the committee and examine the issues around it.
- 4.5.21.3 In order not to obstruct the council in its business, the overview and scrutiny committee may call in an executive decision in advance of its actually being taken. In such a situation all the time-limits apply as above, except that a key decision cannot actually be implemented any sooner than it would have been had the overview and scrutiny committee not called it in.
- 4.5.21.4 Where the overview and scrutiny committee has called-in a key decision from the forward plan before it due date, the decision cannot be called-in again after the final decision has been taken.

#### **4.5.21 Party whip**

- 4.5.21.1 Government guidance views party or group “whipping” as incompatible with overview and scrutiny functions. Whipping arrangements should not be applied to scrutiny committees and members should be free to comment and vote on matters under consideration.

**4.5.22 Public questions**

- 4.5.22.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the public who live or work in Herefordshire. This period may be varied at the discretion of the chairman.
- 4.5.22.1 A question may only be asked if notice has been given by delivering it in writing or by email (councillorservices@herefordshire.gov.uk ) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Thursday where the meeting is on a Tuesday). Each question must give the name and address of the questioner (although only the name and town will be published). Copies of all accepted questions shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.
- 4.5.22.3 Questions will be answered in the order in which they are received.
- 4.5.22.4 A member of the public may submit only one question at any meeting of the council, to a maximum of six in any municipal year.
- 4.5.22.5 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- q) it is longer than 70 words;
  - r) it is in multiple parts;
  - s) it does not relate to the remit of the committee or an item on the agenda;
  - t) it is defamatory, frivolous or offensive;
  - u) it is substantially the same as or similar to a question which has been put at a meeting of Council, a committee of council, or cabinet in the past six months;
  - v) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - w) it is from a council employee and the question is connected to their employment; or
  - x) it relates to a planning application or licensing application.
- 4.5.22.6 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.
- 4.5.22.7 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf.
- 4.5.22.8 A questioner who is present at the meeting may, at the discretion of the chairman, also put one supplementary question without notice. 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 4.4.11.5 above, or if the question takes the form of a statement or more than a minute to ask.
- 4.5.22.9 Where more than one person wishes to raise the same issue or question, they shall be asked to agree a spokesperson to speak on that issue. If they cannot reach such an agreement, the chairman may restrict the number of questions on that issue.

**Answers to public questions**

4.5.22.10 An answer to a question or a supplementary question will be provided by the chairman of the committee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the question is asking for an item to be considered for future inclusion in the work programme the questioner will be advised that they will be informed of the outcome of the committee's consideration of the request once it has been considered as part of the overall work programme prioritisation. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

4.5.22.11 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question

### Questions from members

4.5.22.12 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the council who are not members of the committee. This period may be varied at the discretion of the chairman.

4.5.22.13 A member may ask the chairman a question relating to a matter of the agenda or otherwise within the remit of the committee only if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g.. 5.00pm on Thursday where the meeting is on a Tuesday).

4.5.22.14 The monitoring officer is authorised to reject a question in accordance with the following criteria:

- q) it is longer than 70 words;
- r) it is in multiple parts;
- s) it does not relate to the remit of the committee or an item on the agenda;
- t) it is defamatory, frivolous or offensive;
- u) it is substantially the same as or similar to a question which has been put at a meeting of Council, cabinet or other committee in the past six months;
- v) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
- w) it is related to an employment matter; or
- x) it relates to a planning application or licensing application

4.5.22.15 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

4.5.22.16 The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, the chairman will put the question on their behalf.

4.5.22.17 A member who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the 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 4.5.22.14 above, or if the question takes the form of a statement, or more than a minute to ask.

- 4.5.22.18 An answer to a question or a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, or the time allowed for councillors' questions has expired, a written answer will be provided. If the question is asking for an item to be considered for future inclusion in the work programme the questioner will be advised that they will be informed of the outcome of the committee's consideration of the request once it has been considered as part of the overall work programme prioritisation. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

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## Section 8 - The planning rules

### Councillor involvement in planning applications

#### 4.8.1 Initial submission of applications

- 4.8.1.1 All members will be informed by e-mail on the submission of a new planning application in their ward.
- 4.8.1.2 All applications will proceed and will be determined under delegated powers unless they fall within the category of applications automatically to be referred to committee or are redirected as provided for under the redirection arrangements in these rules.
- 4.8.1.3 In addition:
- a the case officer will telephone the ward member (and/or where necessary arrange a meeting) to update the ward member on the processing of the application and any comments received.
  - b as part of this initial conversation the case officer will also identify to the ward member whether an application triggers the need for a section 106 agreement in accordance with the council's adopted Planning Obligations Supplementary Planning Document.
  - c in the case of applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure that local mitigation measures are appropriately incorporated. As part of this process officers and members will be guided by Circular 5/05, the council's adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the Planning Obligations Manager.
- 4.8.1.4 The ward member(s) for the purpose of this rule is/are the member or members in whose ward the application is located, or whose wards are materially affected by the application.

#### 4.8.2 Determination of Application at Committee

- 4.8.2.1 Councillors at Planning Committee will determine those matters which under the Functions Scheme are to be determined by the Committee including those matters redirected under the redirection arrangements set out in these Rules.
- 4.8.2.2 At Committee the ward member will have an automatic right to start and close the member debate on the application concerned. In multi-member wards each, any or every ward member may speak at the start and close of the debate, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 14 paragraph 5.14.6). In the case of the ward member not being a member of the Committee they would be invited to address the Committee for that item. [In the case of the ward member being a member of the appropriate Committee they will not vote on that item, and act as the ward member as set out above.] To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned. The ward member would initially address the Committee immediately after the public speaking.

**4.8.3 Post Decision**

- 4.8.3.1 Ward members would be advised where appropriate by the case officer, the enforcement team, or the Planning Obligations Manager of the following events:-
- a any evolving inconsistencies between a planning permission and development taking place
  - b any appeal against the refusal of planning permission
  - c the receipt/apportionment of Section 106 Agreement monies
  - d any proposed variations to the Section 106 Agreement.

**4.8.4 Redirection of Delegated Planning Decisions****The Redirection Arrangements**

- 4.8.4.1 Many planning applications are delegated to the Chief Executive and determined by planning officers acting under the Chief Executive's Scheme of Delegation in accordance with the Functions Scheme (Part 3).
- 4.8.4.2 Ward Councillor(s) may choose to ask that sensitive or controversial applications be redirected for a decision by the Planning Committee. Ward Councillor(s) for the purpose of this redirection procedure are the Ward Councillor or any one of the Ward Councillors for a multi-member ward or Members whose wards are materially affected by the application.
- 4.8.4.3 Redirection needs to be made as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications.
- 4.8.4.4 Redirections should normally be made within 3 weeks of the application being notified to the relevant ward members, subject to 4.8.7 below.
- 4.8.4.5 A redirection will apply in the following circumstances:
- a the application raises unusual or sensitive planning issues which would benefit from the consideration of the Committee, or
  - b the application has attracted an unusually high level of public interest in the relevant area. This might be reflected in the number of letters or e-mails or a petition received in connection with the application, or
  - c there has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.

**4.8.5 Conditional Redirection**

- 4.8.5.1 In some cases, Councillors may be content that the application be redirected only if planning officers are intending to grant or refuse planning permission. In that case a Councillor can ask that the matter only be redirected in accordance with this procedure if it is either the intention of the planning officer to grant or refuse the application.

**4.8.6 Other Circumstances**

- 4.8.6.1 Any other reasons for requesting a redirection other than those set out above will be considered on their individual merits and circumstances.

**4.8.7 Referrals requested after the 3 week period**

- 4.8.7.1 Any of the circumstances set out above could justify a late redirection provided the reasons for the lateness of the request are explained when the request is made. In these circumstances, the Assistant Director Environment, Planning and Waste will make a judgement based on the issues raised, and the stage reached in the processing of the application.

**4.8.8 Exceptions to redirection**

- 4.8.8.1 A redirection will occur unless the request is made:
- a in order to “resolve” a disagreement between an applicant and the objector(s) to an application.
  - b where the applicant considers that there is more likelihood of a grant of planning permission if the application is referred to the Committee for a decision.
  - c where the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to Committee for a decision.

**4.8.9 Procedure**

- 4.8.9.1 A Councillor requesting the redirection of an application should always provide sound planning reason(s) for doing so based on the circumstances and material planning considerations of the proposal.
- 4.8.9.2 Any such request should be made in writing to the case officer and the Development Control Manager.
- 4.8.9.3 All requests for redirections will be discussed by the assistant director environment and place (or their delegate) with the Chairman of Planning Committee and a decision whether to accept the redirection will be made by the assistant director environment and place (or their delegate) on the basis of guidance set out in these rules and the circumstances and material planning consideration of the case. In the Chairman’s absence, the Vice Chairman will be consulted.
- 4.8.9.4 There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the application by the case officer, statutory consultees or local residents. In the event that the issue(s) which caused the application to be redirected to the Committee by the Ward Member (and supported by the appropriate officers and the Chairman of the Committee) is/are resolved the Ward Member will be at liberty to withdraw his or her request for a Committee determination. Thereafter the decision will revert to a delegated decision.

**4.8.11 Delegations to officers**

4.8.11.1 If the assistant director environment and place is unavailable or unable to fulfil any of their functions in these rules, they may nominate a substitute to exercise those functions on their behalf.

**4.8.12 Public speaking at planning committee**

4.8.12.1 In the case of the planning committee the public will be permitted to speak at meetings when the following criteria are met:

- a the application on which they wish to speak is for decision at the planning committee
- b the person wishing to speak has already submitted written representations within the time allowed for comment
- c once an item is on an agenda for planning committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning committee
- d if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f speakers may not distribute any written or other material of any kind at the meeting
- g speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h on completion of public speaking, councillors will proceed to determine the application
- i the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.



## Section 9 - Employment rules

### 4.9.1 Employment and dismissal of senior officers

- 4.9.1.1 Subject to paragraphs 4.9.1.1 to 4.9.1.4, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the council must be discharged, on behalf of the council, by the head of paid service or his nominees.
- 4.9.1.2 Paragraph 4.9.1.1 shall not apply to the appointment or dismissal of, or disciplinary action against :
- a head of paid service
  - b section 151 officer
  - c monitoring officer
  - d director for adults and wellbeing
  - e director for children's wellbeing
  - f director for economy, communities and corporate
  - g director of public health
- 4.9.1.3 Where a committee is discharging, on behalf of Council, the function of the appointment or dismissal of an officer designated as the head of paid service, or the dismissal of the council's monitoring officer or section 151 officer Council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given. The designation of a post, but not the appointment of an individual to that post, as monitoring officer or section 151 officer must be approved by Council.
- 4.9.1.4 Where a committee of Council is discharging, on behalf of Council, the function of the appointment or dismissal of any officer referred to in paragraph 4.9.1.2 at least one member of the cabinet must be a member of that committee or sub-committee.
- 4.9.1.5 In paragraph 4.9.1.6 "appointor" means, in relation to the appointment of a person as an officer of the council, Council or where a committee, is discharging the function of appointment on behalf of Council, that committee, as the case may be.
- 4.9.1.6 An offer of an appointment as an officer referred to in paragraph 4.9.1.2 must not be made by the appointor until:
- a the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - b the proper officer has notified every member of the cabinet of:
    - i the name of the person to whom the appointor wishes to make the offer;
    - ii any other particulars relevant to the appointment which the appointor had notified to the proper officer; and

- iii the period within which any objection to the making of the offer is to be made by the leader on behalf of the cabinet to the proper officer; and
    - iv the leader has, within the period specified in the notice notified the appointor that neither s/he nor any other member of the cabinet has any objection to the making of the offer;
  - c the proper officer has notified the appointor that no objection was received by him/her within that period from the leader; or
  - d the appointor is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.1.7 In paragraph 4.9.1.8, “dismissor” means, in relation to the dismissal of an officer of the council, Council or, where a committee, is discharging the function of dismissal on behalf of the council, that committee, as the case may be.

4.9.1.8 Notice of the dismissal of an officer referred to in paragraph 4.9.1.2 must not be given by the dismissor until:

  - a the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - b the proper officer has notified every member of the cabinet of:
    - i the name of the person who the dismissor wishes to dismiss;
    - ii any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - iii the period within which any objection to the dismissal is to be made by the leader on behalf of the cabinet to the proper officer; and either:
  - c the leader has, within the period specified in the notice notified the dismissor that neither s/he nor any other member of the cabinet has any objection to the dismissal;
  - d the proper officer has notified the dismissor that no objection was received by him/her within that period from the leader; or
  - e the dismissor is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.1.9 The employment panel shall be the appropriate body for the purposes of the functions set out in paragraphs 4.9.1.3 to 4.9.1.8 of these rules.

#### **4.9.2 Interim senior officer arrangements**

- 4.9.2.1 The head of paid service will make such interim arrangements under contracts for services for senior officers named in 4.9.1.2 above as may be necessary from time to time to ensure that the statutory functions of the council are adequately fulfilled.

**4.9.3 Appointment of officers**

- 4.9.3.1 All jobs will be open to competition and appointments will be made on merit except as provided for in the council's employment policies and its recruitment and selection procedures and all appointments will be made in accordance with those policies and procedures.
- 4.9.3.2 Where the council propose to appoint an officer to any post the head of paid service or his nominee will:
- a draw up a statement specifying:
    - the duties of the officer concerned; and
    - 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 that is likely to bring it to the attention and attract the maximum interest of persons who are qualified to apply for it; and
  - c make arrangements for a copy of the statement mentioned in paragraph (a) above to be sent to any person on request.
- 4.9.3.3 The head of paid service or his nominee shall make arrangements for the long listing, short listing and interview of applicants.
- 4.9.3.4 Where the appointment is to a post specified in paragraph 4.9.1.2 above, the head of paid service or his nominee will carry out all steps related to the appointment following consultation with the leader of the council or his nominee.
- 4.9.3.5 Where the appointment is to the post of head of paid service, the leader of the council will nominate an officer to carry out all the steps related to the appointment following consultation with the leader of the council or his nominee.
- 4.9.3.6 The short-listing and interview of candidates for posts specified in paragraph 4.9.1.2 above will be carried out by the employment panel.
- 4.9.3.7 Every appointment of any officer specified in paragraph 4.9.1.2 above shall be made by the employment panel, save that the appointment of a head of paid service must be approved by full Council.
- 4.9.3.8 The employment panel shall be advised by the head of paid service or in the event of the appointment of the head of paid service by the officer nominated for that purpose by the leader of the council.
- 4.9.3.9 The leader of the council (in relation to the appointment of the head of paid service) and the head of paid service in consultation with the leader in relation to those officers to be appointed by the employment panel may appoint external recruitment consultants to assist or advise the employment panel.

**4.9.4 Disciplinary action – head of paid service, section 151 officer and monitoring officer**

- 4.9.4.1 The head of paid service, section 151 officer and monitoring officer may not be dismissed unless the procedure set out in the following paragraphs is complied

with. The head of paid service will be the proper officer for these purposes except where the disciplinary action or dismissal relates to the head of paid service in which case the leader of the council will nominate an officer to carry out these steps.

4.9.4.2 The council has established a panel (being the employment panel with the addition of such independent persons as set out at 4.9.4.3 below) which will meet at least 20 working days before the full Council meeting which will consider whether to dismiss.

4.9.4.3 A “*independent person*” means any independent person who has been appointed by the council and who has accepted an invitation issued by the monitoring officer in accordance with the following priority order -

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

4.9.4.4 Any remuneration, allowances or fees paid by the authority 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 independent person under the 2011 Localism Act.

4.9.4.5 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, 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.

#### **4.9.5 The employment panel**

4.9.5.1 The employment panel consists of five members of the council and must include at least one member of the cabinet.

#### **4.9.6 Terms and conditions of employment**

4.9.6.1 The employment panel shall be responsible for determining the terms and conditions of employment of the officers specified in paragraph 4.9.1.2 above, and will be a consultee on overall employment terms and conditions (including policies) to be determined by the head of paid service.

#### **4.9.7 Voting on appointments**

4.9.7.1 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the employment panel in favour of one candidate, the candidate receiving the least number of votes shall be

disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.

#### **4.9.8 Declarations and member involvement**

- 4.9.8.1 Candidates for appointment to any post within the council will be required to declare whether they are related to an existing member or officer of the council; any candidate making such a declaration will not be appointed without the independent authorisation of the relevant director or head of paid service as appropriate
- 4.9.8.2 No member will seek support for any person for any appointment.
- 4.9.8.3 The council shall disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council