

## **Part 2 – The Articles**

### **Chapter 4 – The Assembly**

#### **1. Status and Membership**

- 1.1 The Assembly is a meeting of the full Council and comprises the 51 directly elected Councillors meeting as a body (or as many of those Councillors who are in office at the time concerned).

#### **2. Responsibility for Functions**

- 2.1 The Assembly has responsibility for the following functions:

- (i) Approving and amending the Constitution and its component parts, except in so far as this function has been delegated to the Monitoring Officer.
- (ii) Approving which plans and strategies shall form the Council's Policy Framework, requesting the Cabinet to prepare a draft (or draft amended) plan or strategy, and approving (or approving amendments to) the plans and strategies contained within the Policy Framework. The Assembly has resolved that the following plans and strategies shall comprise the Policy Framework (**Note:** (a) to (f) are required by law):
  - (a) Crime and Disorder Reduction Strategy;
  - (b) Local Implementation Plan (Transport);
  - (c) Statement of Licensing Policy;
  - (d) Local Plan;
  - (e) Community Strategy;
  - (f) Youth Justice Plan;
  - (g) Corporate Plan;
  - (h) Housing Strategy;
  - (i) Any Plan or Strategy that must be approved by the Authority and submitted to the Secretary of State or a Minister of the Crown for approval.
- (iii) Approving the Budget, including the level of Council Tax, Revenue Budget and Capital Programme.
- (iv) Approving the Treasury Policy Statement, Annual Strategy Statement and the Annual Report as well as any related Treasury documents.
- (v) Approving any application to the Secretary of State in respect of any Housing Land Transfer.
- (vi) Subject to any urgency procedures, making decisions about the discharge of an executive function where the decision maker is minded to

make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget.

- (vii) Appointing and removing the Leader of the Council, subject to the relevant procedures.
- (viii) Agreeing and/or amending the overall political structure of meetings, the terms of reference of committees, their composition and making appointments to them, unless the appointment is an executive function or has been delegated by the Assembly.
- (ix) Making appointments to outside bodies, unless the appointment is an executive function or has been delegated by the Assembly.
- (x) Adopting a Members' Allowances Scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003.
- (xi) Appointing the following sub-committees of the Assembly:

**JNC Appointments, Salaries and Structures Panel** - consisting of the Leader (who shall be Chair), up to three Cabinet Members (nominated by the Leader) and two non-Cabinet councillors (selected by the Chief Executive from a pool of six non-Cabinet councillors appointed by the Assembly), to:

- (a) shortlist and interview candidates for the position of Chief Executive (Head of Paid Service) and Strategic Leadership Directors and make recommendations to the Assembly in respect of the appointment;
- (b) make decisions in respect of acting/interim appointments to the positions of Chief Executive and Strategic Leadership Directors, as well as the permanent / acting / interim appointment and/or assimilation of all other JNC Officers.
- (c) make decisions in respect of the salaries and conditions of all JNC officers (including the Chief Executive);
- (d) make decisions in respect of the grading of any new JNC posts in line with Council policy; and
- (e) make decisions in respect of senior management (JNC) structures / reorganisations.

**JNC Disciplinary Panel** - consisting of the Leader (who shall be Chair), up to three Cabinet Members (nominated by the Leader) and two non-Cabinet councillors (selected by the Chief Executive from the pool of six non-Cabinet councillors appointed by the Assembly), to:

- (a) make decisions in respect of the suspension of the Chief Executive in accordance with paragraph 5, Chapter 3, Part 4 of the Constitution for the purposes of investigating alleged misconduct;
- (b) make decisions in respect of disciplinary action, including dismissal, in respect of all JNC Officers with the exception of the

- Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer;
- (c) make decisions in respect of disciplinary action, excluding dismissal, in respect of the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer, subject to the provisions below; and
  - (d) make recommendations to the Assembly in relation to the dismissal of the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer, subject to the provisions below.

In respect of (c) and (d) above, the Panel shall decide whether the issue requires no formal action or it shall make an appointment of an Independent Investigator from a list held by the JNC Joint Secretaries for the purpose of evidence collection and investigation, to be presented by the Independent Investigator to the Panel as a report. When determining a report of an Independent Investigator, the membership of the Panel shall be extended to include at least two Independent Persons appointed by the Council under the Localism Act 2011.

**JNC Appeals Panel** - consisting of at least two Members of the Cabinet, one of whom shall be appointed as Chair, and two non-Cabinet councillors (selected by the Chief Executive from the pool of six non-Cabinet councillors appointed by the Assembly), subject to none having participated in any previously appointed Panel relating to the case in question, to:

- (a) consider appeals in respect of dismissal, disciplinary action, redundancy and grievances of all JNC Officers with the exception of the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer, and to take a decision either to confirm the action or to impose no sanction or a lesser sanction; and
  - (b) consider appeals, with the involvement of an Independent Person, in respect of disciplinary action (short of dismissal), redundancy and grievances relating to the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer and to take a decision either to confirm the action or to impose no sanction or a lesser sanction.
- (xii) To consider a recommendation from the JNC Disciplinary Panel regarding the dismissal of either the Chief Executive (Head of Paid Service), Monitoring Officer or Chief Financial Officer and to take a decision either to confirm the recommendation to dismiss or to impose no sanction or a lesser sanction (Note: Before taking a decision, the Assembly shall invite representations from the officer. Those representations shall constitute the appeals process).
  - (xiii) Submitting proposals to the Secretary of State under the Representation of the People Act 2000.

- (xiv) Making, amending, revoking, re-enacting or adopting byelaws, or promoting or opposing the making of local legislation or personal Bills.
- (xv) Changing the name of the area.
- (xvi) Receiving reports and recommendations from the Council's External Auditors, the Ombudsman and Government or other Inspectorates relating to Council-wide issues and determining matters where required.
- (xvii) Making decisions in respect of any change to the electoral arrangements for the Authority.
- (xviii) Exercising any function under a local Act specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- (xix) Approving the annual Pay Policy of the Council.
- (xx) All other matters which, by law, must be reserved to the Assembly.
- (xxi) Such other functions which the Assembly may lawfully decide to reserve to itself.

### **3. Responsibility and delegation of functions**

- 3.1 The Assembly may arrange for the discharge of any of its functions by a Committee of the Council, a Sub-Committee of the Council or by an officer, with the exception of those functions reserved to the Assembly by statute. Similarly, a Committee may delegate any of its functions to a Sub-Committee or an officer, and a Sub-Committee may delegate any of its functions to an officer.

### **4. Types of Assembly Meeting**

- 4.1 There may be three types of Assembly meeting:
- (a) Annual Meeting
  - (b) Ordinary meeting
  - (c) Extraordinary meeting

### **5. Business at Annual Meetings**

- 5.1 In a year when there is an ordinary election of Councillors, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting shall take place in May.
- 5.2 The Annual Meeting will:
- a) elect the Chair and Deputy Chair of the Assembly;
  - b) receive any apologies for absence;
  - c) receive any declarations of interest;
  - d) approve the minutes of the last meeting;

- e) elect the Leader to serve for a four-year term or until the next annual meeting after ordinary whole Council elections;
- f) decide which Member-level bodies to establish for the municipal year;
- g) decide the size and terms of reference of those bodies;
- h) decide the allocation of seats to political groups in accordance with the political balance rules;
- i) receive nominations of councillors to serve on those council bodies and outside bodies;
- j) appoint to those council bodies and outside bodies except where appointment to those council bodies has been delegated by the Assembly or is exercisable only by the Cabinet;
- k) appoint such Chairs and Deputy Chairs of Committees as it falls to Assembly to appoint;
- l) receive the minutes of meetings of JNC committees, sub-committees and panels;
- m) receive the Leader's Statement;
- n) approve the annual Members' Allowances Scheme;
- o) consider Motions and/or Questions With Notice, as submitted in line with the procedures for the meeting;
- p) consider any other business set out in the notice convening the meeting;
- q) consider urgent business with the permission of the Chair.

Note: Rule (e) above will apply only at the Annual Meeting following Local Elections, or following the removal, death or resignation of the Leader.

## **6. Business at Ordinary Meetings**

### 6.1 Business at ordinary meetings will be to:

- (a) appoint a person to preside if neither the Chair nor the Deputy Chair is present or able to act;
- (b) receive any apologies for absence;
- (c) receive any declarations of interest;
- (d) approve as a correct record the minutes of the last meeting;
- (e) receive the minutes of meetings of JNC committees, sub-committees and panels;
- (f) receive the Leader's Statement;

- (g) make any appointments that fall to be made to Committees, outside bodies, statutory and other panels;
- (h) consider Motions and/or Questions submitted in line with the procedures for the meeting;
- (i) consider any other business set out in the notice convening the meeting;
- (j) consider urgent business with the permission of the Chair.

## **7. Extraordinary Meetings**

### **Calling extraordinary meetings**

7.1 Those listed below may require the Chief Executive to call an extraordinary Assembly meeting:

- (a) The Assembly by resolution;
- (b) The Chair of the Assembly;
- (c) A Statutory Officer of the Authority to consider such matters that fall under their statutory responsibilities;
- (d) Any five Councillors provided they have together signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Chair and he/she has refused to call a meeting or has failed within seven days of the presentation of the requisition to call a meeting.

7.2 Upon receipt of such requirement, the Chief Executive shall, subject to the conditions in (d) above, arrange a meeting of the Assembly to be held within 20 working days of receipt by her/him of the request.

### **Business**

7.3 Business at extraordinary meetings of the Assembly shall be restricted to the following:

- (a) appoint a Member to preside at the meeting if neither the Chair nor the Deputy Chair is present or able to preside;
- (b) receive apologies for absence;
- (c) receive any declarations of interest from Members and officers;
- (d) consider any business set out in the notice convening the meeting;
- (e) consider urgent business with the permission of the Chair.

## **8. Election of the Leader of the Council**

8.1 The Monitoring Officer (MO) will invite nominations from the floor for the position of the Leader of the Council. Nominations will be permitted only from constituted political groups having ten or more Councillors at the time of the

meeting.

- 8.2 The MO will record and read out in alphabetical order the names of the persons nominated and the political group they represent.
- 8.3 The MO will conduct the vote for the election of the Leader of the Council in accordance with the following procedure:
- (i) Each Councillor present at the time will have one vote.
  - (ii) The vote will be taken by way of a roll call and recorded in the Minutes.
  - (iii) The MO will call out the name of each nominated person in alphabetical order and invite Councillors to vote according to their preference; alternatively they may, if they wish, abstain.
  - (iv) At the conclusion of the vote the MO will announce the number of votes cast for each nominated person. If any one nominated person receives an overall majority of the votes cast (abstentions will not be counted), he/she will be declared the winner and be elected as the Leader of the Council.
  - (v) If no one nominated person receives an overall majority of the votes cast, then the nominated person receiving the least number of votes will be eliminated.
  - (vi) The MO will then invite further round(s) of voting as necessary in accordance with the procedures set out in (i) to (iii) above until one nominated person receives an overall majority, for which any abstentions will not be counted.
  - (vii) Any Councillor not present at the start of the first vote will not be entitled to a vote at a later round even if they have joined the meeting by that stage.
- 8.4 Paragraphs 8.2 and 8.3 shall be waived if only one nomination is made. Voting shall then be by a show of hands.

## **9. Members' Questions**

### **Questions without notice**

- 9.1 Any Member may ask the Leader, a Cabinet Member or the Chair of a Committee any question without notice upon an item of report or recommendation of the Cabinet or Committee concerned, immediately following the presentation of that matter.

### **Questions With Notice**

- 9.2 Written notice of any questions relating to matters not on the agenda must be received by the Chief Executive by no later than 5.00pm on the Wednesday of the week before the Assembly meeting. A Councillor may submit a maximum of two questions, either directly him/herself or via the Group Secretary.
- 9.3 The Chief Executive may reject a written question if, in his/her opinion:

- (a) it is of a vexatious or derogatory nature or otherwise considered improper or inappropriate;
  - (b) is contrary to any provision of any code, protocol, legal requirement or rule of the Council;
  - (c) it does not relate to the business of the Council;
  - (d) it is substantially the same as another written question previously submitted under this process and considered at the Assembly within the previous twelve months.
- 9.4 Where the Chief Executive rejects a written question on any of the above grounds, he/she shall inform the Chair and the Councillor who submitted the question as soon as possible. Prior to determining whether to accept or reject a question, the Chief Executive may seek clarification or propose alternative wording to the Councillor who submitted the question.
- 9.5 Wherever possible, answers will be given at the meeting by the appropriate Councillor (usually the relevant Cabinet Member or Leader). In the event that it is not possible to do so, a written response will be sent to all Councillors as soon as possible.
- 9.6 In the event that the Councillor who submitted the question is not present at the Assembly meeting, the question will be withdrawn.
- 9.7 Any questions withdrawn as indicated above, or withdrawn at the request of the Councillor who submitted the question, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Councillor, or a colleague on their behalf, has notified the Chief Executive by 5.00pm on the day of the meeting of their inability to attend due to their ill health or other reason accepted by the Chief Executive.
- 9.8 Where a Councillor wishes to exercise the right under Section 71(5) of the Local Government and Housing Act 1989 to ask a question of Councillors or officers involved (as Member, Director or Council's representative) in connection with Local Authorities' Interest in Companies, he/she should give notice in writing to the Chief Executive at least seven clear working days before the Assembly meeting at which this matter is to be submitted to enable a response to be given at the meeting.
- 9.9 After the initial answer, the Councillor who submitted the question may ask one supplementary question arising directly out of the initial question or answer, without notice, and the person who answered the initial question shall respond to the supplementary question wherever possible. There shall be no further debate on the issue.
- 9.10 Any questions which are not dealt with by the close of the meeting will be responded to in writing by the appropriate Councillor before the next meeting.

## **10. Motions With Notice**

- 10.1 Written notice of any motions must be received by the Chief Executive by no later than 4.00pm on the Wednesday two weeks before the meeting, except in respect of a vote of no confidence in the Leader of the Council for which the process in paragraph 13 applies.
- 10.2 A notice of motion must relate to a matter which affects the Council or its area and must relate to a matter in respect of which the Council has a relevant function. There is no limit on the number of motions that a Councillor may submit but the notice of motion must be submitted either by the Councillor who is proposing the motion or via the Group Secretary.
- 10.3 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.
- 10.4 The Chief Executive may reject a notice of motion if, in his/her opinion:
  - (a) it is of a vexatious or derogatory nature or otherwise considered improper or inappropriate;
  - (b) is contrary to any provision of any code, protocol, legal requirement or rule of the Council;
  - (c) it does not relate to the business of the Council;
  - (d) is substantially the same as another motion already considered at the Assembly within the previous twelve months.
- 10.5 Where the Chief Executive rejects a notice of motion on any of the above grounds, he/she shall inform the Chair and the Councillor who submitted the notice of motion as soon as possible. Prior to determining whether to accept or reject a motion, the Chief Executive may seek clarification or propose alternative wording to the Councillor who submitted the motion.
- 10.6 In the event that the Councillor who is proposing the motion is not present at the Assembly meeting, the motion will be withdrawn.
- 10.7 Any motions withdrawn as indicated above, or withdrawn at the request of the Councillor who proposed the motion, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Councillor, or a colleague on their behalf, has notified the Chief Executive by 5.00 pm on the day of the meeting of their inability to attend due to their ill health or other reason accepted by the Chief Executive.
- 10.8 Motions will be listed on the agenda in the order in which they are received, save that:
  - (a) where two or more notices of motion are received from a particular Councillor for the same meeting, that Councillor's second notice of motion shall be included after all other Councillors' first notices of motion, that Councillor's third notice of motion shall be included after all other Councillors' second notices of motion, and so on.

- (b) where the Chief Executive considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case he/she may group such notices of motion together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.
- 10.9 Written notice of any amendments to motions must be received by the Chief Executive by no later than 12 noon on the Friday before the meeting. The same criteria and actions as described in paragraphs 10.2 - 10.8 will apply in relation to any amendments received.
- 10.10 Any amendments proposed after the time specified in paragraph 10.9 will only be considered for exceptional reasons such as a change in circumstances appertaining to the original motion, in which case the consent of the Chair will be required.
- 10.11 The Assembly shall not debate any motion which could give rise to a significant change to the income or expenditure of the Council or to contract terms unless, in the opinion of the Chief Executive acting on advice from the Chief Financial Officer and Director of Law and Governance as appropriate, the motion is accompanied by a report from the Chief Financial Officer or the Director of Law and Governance, as appropriate, setting out the financial or legal effect of the motion.
- 10.12 Where a motion which would require an accompanying report under Rule 10.11 falls to be moved without such accompanying report being made available to all Councillors, the motion shall stand adjourned without debate to the next available meeting of the Assembly.
- 10.13 Subject to Rule 10.14, if there are other motions or recommendations on the agenda that have not been dealt with by the close of the meeting, they are deemed formally moved and seconded and shall be put to the vote by the Chair without debate.
- 10.14 Where a notice of motion submitted under Rule 10 falls to be dealt with under Rule 10.13, the Councillor giving the notice may either:
- (a) speak to the motion for not more than three minutes before the motion is put by the Chair without debate; or
  - (b) require that the motion is deferred to the next available meeting.
- 11. Motion to rescind a previous decision**
- 11.1 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of the Assembly within the past six months, may not be moved except upon a recommendation from the Cabinet for a variation of the approved Budget or Policy Framework, or where the Monitoring Officer confirms that it is appropriate for the Assembly to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.

## **12. Rules of Debate**

12.1 The following order / rules of debate shall apply:

- (a) Except with the Chair's consent, the debate on each motion shall last no longer than 10 minutes and no individual speech shall exceed two minutes.
- (b) The mover will move the motion and explain its purpose.
- (c) The Chair will invite another Councillor to second the motion.
- (d) If any amendment(s) has been accepted in accordance with paragraphs 10.9 or 10.10, the Chair will invite the relevant Councillor to move the amendment(s) and explain the purpose.
- (e) The Chair will invite another Councillor(s) to second the amendment(s).
- (f) The Chair will then invite Councillors to speak on the motion and any amendments.
- (g) Once all Councillors who wish to speak have done so, or the time limit has elapsed, the Chair will allow the mover(s) of the amendment(s) a right of reply followed by the mover of the original motion.
- (h) At the end of the debate, any amendments will be voted on in the order in which they were proposed.
- (i) If an amendment is carried, the motion as amended becomes the substantive motion to which any further amendments are moved and voted upon.
- (j) After an amendment has been carried, the Chair will read out the new substantive motion before accepting any further amendments or, if there are none, put it to the vote.
- (k) If all amendments are lost, a vote will be taken on the original motion.

## **13. Motion to remove the Leader of the Council from office**

13.1 The Leader may be removed from office by resolution of the Assembly following notice of a motion signed by at least half of the full membership of the Council. Any such motion must be delivered to the Chief Executive in writing at least 10 working days before the meeting, giving reasons.

13.2 The motion will be listed first on the agenda. No amendments to a motion calling for the removal of the Leader of the Council will be allowed.

13.3 In order to carry the motion, at least two-thirds overall majority of those Councillors present at the meeting will be required.

13.4 If the Assembly passes such a resolution, a new Leader is to be elected either:

- (a) at the meeting at which the Leader is removed from office; or
- (b) at a subsequent meeting.

13.5 In the event that the Leader no longer holds office, the Deputy Leader will carry out the role and duties of the Leader until the new Leader is elected by the Assembly.

#### **14. Closure motions**

14.1 A Councillor may move, without comment, any one of the following motions at the end of a speech of another Councillor:

- (a) to proceed to the next business;
- (b) that the question / motion be now put;
- (c) to adjourn a debate;
- (d) to adjourn a meeting.

14.2 If a motion to proceed to next business is seconded the Chair will put this to the vote without further discussion on the original motion. If the procedural motion is carried the meeting will proceed to the next item of business.

14.3 If a motion that the matter be now put is seconded, the Chair will put the procedural motion to the vote. If the procedural motion is passed the Chair will put the original motion to the vote.

14.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair considers that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without further debate.

#### **15. Appointment of Councillors to Committees**

##### **Allocation of seats to Political Groups**

15.1 Whenever the Council is required to undertake a review of the allocation of seats to political groups, the Chief Executive shall conduct such review and report to the next appropriate meeting of the Assembly setting out the number of seats on each Committee and outside body which are allocated to each political group, in line with political proportionality requirements, and the number of seats which remain unallocated, in accordance with the requirements of the Local Government and Housing Act 1989. The Chief Executive shall send a copy of the report to the Group Secretary of each political group and to any Councillors who are not members of any political group.

15.2 Following receipt of such report, each Group Secretary shall make nomination of Councillors for appointment to those seats on each Committee which are allocated to his/her political group. Such nomination may be made in writing to the Chief Executive in advance of the meeting or may be made verbally at the meeting at which such appointments are to be made.

## **Appointments**

- 15.3 At the meeting of the Assembly where an item of business relating to the appointment of Committees is included on the agenda, the Assembly shall appoint Councillors to each Committee in accordance with the nominations made by each Group Leader.
- 15.4 The Assembly will then appoint Councillors to those seats on Committees which have not been allocated to any political group from amongst those Councillors who are not members of any political group.
- 15.5 A Group Secretary may, at any time, notify the Chief Executive in writing that a named Councillor has been removed from a seat on a particular Committee or outside body which has been allocated to his/her political group. The appointment of another Councillor to fill the vacant seat shall be dealt with at the next appropriate meeting of the Assembly.

## **Appointment of Co-opted Members of Committees**

- 15.6 Where the Assembly determines that a committee or sub-committee shall include one or more co-opted Member, it shall also specify whether such Member shall be a voting or a non-voting Member, the dates and term of office of any such appointment and the procedure for selection of such co-opted Member(s), which may include advertisement and competition or invitation for nomination from specified bodies.
- 15.7 Co-opted Membership of any committee shall not be subject to proportionality.
- 15.8 The Assembly shall have the power to remove such co-opted Members from a committee or sub-committee by simple majority.