

# West Berkshire Council Constitution

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## Part 5

## Executive Rules of Procedure

### Document Control

<b>Document Ref:</b>	WB/P&C/MF/2008-11	<b>Date Created:</b>	May 2007
<b>Version:</b>	10	<b>Date Modified:</b>	May 2016
<b>Revision due</b>			
<b>Author:</b>	Moirra Fraser – Democratic Services Manager		
<b>Owning Service</b>	Strategic Support		

### Change History

Version	Date	Description
1.1	10 Sept 2007	Amendment to paragraph 5.6.1
2	22 Sept 2011	See range of amendments made at Full Council
3	April 2012	Changes to whole document as a consequence of the Senior Management Review
4	December 2012	Amendments following introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
5	July 2013	Added Health & Wellbeing Board (Paragraph 5.1.9)
6	December 2013	5.6.3 and 5.9.4 and Appendix A
7	May 2014	5.1.4 Appointment of Deputy Leader
8	May 2015	Appendix A – approved at Council on 19 May



<b>Version</b>	<b>Date</b>	<b>Description</b>
9	April 2016	5.1.6 and 5.12.1
10	May 2016	5.6.3 Amendment to take cognisance of fact Members are expected to use Council issued tablets at meetings. 5.1.3, 5.3.2, 5.4.2, 5.5.2, 5.6.10 and Appendix A Changes to reflect creation of Select Committees

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## **5.1 How the Executive Operates**

### **5.1.1 Function and Composition of the Executive**

The Executive is the part of the Council which is responsible for making all 'key decisions' within the approved Budget and Policy Framework. Key Decisions are defined by regulation 8 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012) as an Executive decision which is likely:

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision is related.
- (b) to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The Executive has to make decisions which are in accordance with the Council's overall policies and budget. If the Executive wishes to make a decision outside the Budget and Policy Framework (Part 9 (Budget and Policy Framework Rules of Procedure) refers), this must be referred to the Council as a whole to decide.

### **5.1.2 Election of the Strong Leader**

The Executive will consist of an Executive Leader, appointed under the Stronger Leader and Cabinet Model, who shall be a Member elected for a four year period (or the remaining period until an election) at the Annual Meeting of the Council following local elections.

The Strong Executive Leader will hold office until:

- they resign from the office; or
- they are suspended from being a Member under Part III of the Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007)
- they are no longer a Member; or
- they are removed from office by resolution of the Council.

### **5.1.3 Appointment of the Executive**

The Executive Leader will appoint the Executive of at least two but no more than nine Members at the annual Council meeting each year.

The Executive cannot include the Chairman or Vice-Chairman of the Council and there will be no substitutes or co-optees for Executive Members.

Members of the Executive cannot be Members of the Council's Overview and Scrutiny Management Commission or its Sub-Committee(s) but may be Members of Scrutiny Task Groups.

### **5.1.4 Appointment of the Deputy Leader**

The Executive Leader will chair the Executive and will appoint a Deputy Leader to act as Vice-Chairman in their absence. The Deputy Leader is

appointed by the Leader and ceases to be Deputy Leader when the Leader ceases to be Leader unless:

- they resign from the office; or
- they are suspended from being a Member under Part III of the Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007)
- they are no longer a Member; or
- they are removed from office by resolution of the Council.

#### **5.1.5 Who may make Executive Decisions**

The arrangements for the discharge of Executive functions are set out in the Executive arrangements adopted by the Council. The Executive Leader can provide for Executive functions to be discharged by:

- the Executive as a whole;
- a Committee of the Executive;
- an individual Member of the Executive;
- an Officer;
- joint arrangements; or
- another local authority.

#### **5.1.6 Delegation by the Executive Leader**

At the Budget Meeting of the Council, the Executive Leader will present to the Council a written record of delegations they have made for inclusion in Part 3 of this Constitution.

The document presented by the Executive Leader will contain the following information about Executive functions in relation to the coming year:

- The names, addresses and wards of the people appointed to the Executive by the Executive Leader.
- The extent of any authority delegated to Executive Members individually, including details of the limitation on their authority.
- The terms of reference and constitution of such Executive Committees as the Executive Leader appoints and the names of Executive Members appointed to them.
- The nature and extent of any delegation of Executive functions to any other authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the coming year.

#### **5.1.7 Sub-Delegation of Executive Functions**

Where the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to a joint arrangement or an Officer.



Unless the Council directs otherwise, if the Executive Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.

Unless the Executive Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Executive Leader may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

The Head of Strategic Support will maintain a written record of delegations made by the Executive Leader, or an Executive Member or Committee.

#### **5.1.8 Decisions by Individual Portfolio Members of the Executive**

Decisions by Individual Portfolio Holders will be made in accordance with Appendix B (Protocol for Decision Making by Individual Executive Members) of Part 13 (Codes and Protocols) of this Constitution.

#### **5.1.9 Health and Wellbeing Board**

The Executive Rules of Procedure apply in full to the Health And Wellbeing Board as it is a Sub-Committee of the Executive. (See Articles Paragraph 2.6.9 (Health and Wellbeing Board)).

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

#### **5.2.1 Scheme of Delegation**

The Council's Scheme of Delegation will be dealt with as follows:

- The Council will adopt the Scheme of Delegation and this will include the details required in Article 6 and set out in Part 3 of the Constitution relating to responsibility for functions. Subject to (b) below, this may only be amended by the Council.
- The Executive Leader may amend the Scheme of Delegation in respect to Executive functions at any time by giving written notice to the Chief Executive and to the person, body or Committee concerned. The notice must set out the extent of the amendment, and whether it entails the addition or withdrawal of delegation from any person, body, Committee or the Executive as a whole. The notice is effective when it is received by the Chief Executive. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Executive Leader, and will produce a revised statement of delegation arrangements for inclusion in Part 3 (Scheme of Delegation) of this Constitution.
- Where the Executive Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when it has been served on its Chairman.

#### **5.2.2 Conflicts of Interest**

Conflicts of interest will be dealt with as follows:

- Where the Executive Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members (Appendix H) in Part 13 (Codes and Protocols) of this Constitution.
- If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct (Appendix H) for Members in Part 13 (Codes and Protocols) of this Constitution.
- If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members (Appendix H) in Part 13 (Codes and Protocols) of this Constitution or in relation to decisions made by Individual Members to the Individual Decision Making Protocol (as set out in Part 13 of the Constitution).

## **5.3 Call-In**

### **5.3.1 Publication of Decisions**

The Head of Strategic Support will publish all decisions of the Executive, Committees of the Executive, individual Members of the Executive and 'key decisions' taken under delegated powers of Officers to all Members of Council normally within three clear working days of the decision. Decisions will generally be published the next working day after the meeting, but no later than three working days after the meeting.

If the body taking the decision reasonably considers that, for reasons of expediency which shall be stated in the notice of decision, a decision should not be subject to call-in procedures, the procedure outlined in Rule 5.3.5 (Procedure Following Call-In) shall not apply to that decision.

### **5.3.2 Decisions not Subject to Call-In**

The call-in procedure as set out below shall not apply where the decision taken by the Executive has to be implemented before the expiry of the call-in period. This will only be the case if one of the following applies:

- If there were a delay in implementing the decision, this would have serious financial implications for the Council or could compromise the Council's position.
- The item is deemed an Urgent Key Decision as set out in Rule 5.4.6 (Special Urgency – Key Decision).

The call in procedure will not apply to decisions when:

- The item is due to be referred to Council for final approval, e.g. budget.
- The item has been considered by the Overview and Scrutiny Management Commission or its Sub-Committee(s), or has been the subject of a review undertaken by another body e.g. Task Group, within the preceding six months.
- Reports that do not require a decision and are for information only will not be subject to call in.

Any matter which has been the subject of a call-in request may not be the subject of a further call-in request.

The reason why the item is “not subject to call-in” must be specified in the report. In the event of a dispute over the reason why the item is “not subject to call-in” the Monitoring Officer or the Section 151 Officer will be the final arbiter.

### **5.3.3 Non-Implementation of Decisions**

Except as outlined in Rule 5.3.1 (Publication of Decisions) above, or an item that is not subject to call-in (see Rule 5.3.2 – Decisions not subject to Call-In), Executive decisions shall not be capable of implementation until either:

- (a) the time for a call-in request has expired without such a request being made; or
- (b) the procedure in the following Rules has been followed.

### **5.3.4 Review of Decision**

Any five Members of Council (excluding any Members involved in making the original decision) may by 5pm on the fifth clear working day following the publication of the decision give notice in writing (including via e-mail) to the Head of Strategic Support requesting that the decision be reviewed by the Overview and Scrutiny Management Commission. The notice shall give reasons for the request ('call-in request'), together with a proposal for an alternative course of action and state whether or not those Members believe that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.

### **5.3.5 Procedure Following Call-In**

When a call-in request is duly made, the Head of Strategic Support shall inform the Executive Leader and the Chairman of the Overview and Scrutiny Management Commission, and shall convene a special meeting of the Commission as soon as reasonably practicable for the purpose of reviewing the decision unless the matter can conveniently be reviewed at the next scheduled meeting of the Commission.

If the request for a call-in states that the reason for it being called-in is that the decision is outside the budget or policy framework it will be referred to the Monitoring or Section 151 Officer who shall decide if this is the case.

### **5.3.6 Review of Decision**

Any Member of Council who has signed a call-in request may attend the meeting of the Overview and Scrutiny Management Commission when the decision is reviewed and may speak to that item of business. If a Member of Council wishes to speak to a called-in item, but has not signed the call-in request, they can request the permission of the Chairman of the Commission to speak to the item, giving 24 hours notice in advance of the meeting in question.

The Overview and Scrutiny Management Commission cannot overturn the decision which it is reviewing but may either concur with the decision (in which case it will take immediate effect) or refer it back to the Executive for further consideration. If the Commission is of the opinion, having taken

advice from the Council's Section 151 Officer or Monitoring Officer that a decision is outside the Budget and/or Policy Framework approved by the Council, the Commission may refer the decision to the Council. The Council may concur with the decision (in which case it will take immediate effect) or refer it back to the Executive for further consideration.

### **5.3.7 Referral Back to Executive**

The Overview and Scrutiny Management Commission will produce a report with its findings to the next meeting of the Executive (i.e. the meeting following the call-in request) unless there are exceptional circumstances why this cannot be achieved. In these circumstances the Chairman of the Commission and the Leader of the Council will agree a revised timetable. The report will either confirm the original decision or propose amendments to it in any way it thinks fit and shall give reasons for its final decision. If the Overview and Scrutiny Management Commission upholds the Executive decision, that decision shall take immediate effect (Rule 5.3.6 [Review of Decision] above refers).

Any matter which has been the subject of a call-in request may not be the subject of a further call-in request.

## **5.4 The West Berkshire Council Forward Plan**

### **5.4.1 Period of the Forward Plan**

A Forward Plan will be prepared by the Head of Strategic Support to cover a period of four months. The introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 includes a requirement for a notice of any key decisions to be published 28 clear working days before the decision is made unless an urgent decision is required (see paragraph 5.4.6 (Special Urgency – 'Key Decision')).

*[Note: Clear working days do not include day of notice despatch, day of meeting, weekends or bank holidays]*

### **5.4.2 Contents of the Forward Plan**

The Forward Plan will contain matters which the Executive Leader has reason to believe will be the subject of a 'key decision' to be taken by the Executive, a Committee of the Executive, individual Members of the Executive or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Plan. The Forward Plan will also contain details of intended review activity by the Overview and Scrutiny Management Commission and its Sub-Committee(s) or another body e.g. Task Group associated with the Overview and Scrutiny Management Commission. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 are only applicable to Executive Decisions.

It will describe the following particulars insofar as the information is available, applicable or might reasonably be obtained:

- the matter in respect of which a decision is to be made;

- where the decision taken is by an individual their name and title, if any, and where the decision-taker is a body, its name and details of membership;
- the date on which, or the period within which, the decision will be taken;
- the identity of the principal groups whom the decision-taker proposes to consult before taking the decision;
- the means by which any such consultation is proposed to be undertaken;
- The steps any person might take who wishes to make representations to the Executive or decision-taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- a list of the documents submitted to the decision-taker for consideration in relation to the matter.

#### **5.4.3 Publication of the Forward Plan**

The Head of Strategic Support will publish once a year a notice in at least one newspaper circulating in the area, stating:

- that 'key decisions' are to be taken on behalf of the Council;
- that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- that the Plan will be available for inspection, free of charge, at the Council's offices during normal office hours and will also be available on the Council's website;
- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- that other documents may be submitted to decision-takers;
- the procedure for requesting details of documents (if any) as they become available; and
- the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

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

#### **5.4.4 Application of Rules to the Executive**

If the Executive or its Committees (if appointed) meet to discuss a 'key decision' to be taken collectively, with an Officer (other than a political assistant) present, within twenty eight days of the date according to the Forward Plan by which it is to be decided, then it must also comply with

Rules 8.1 to 8.3 inclusive (Part 8 of the Constitution), unless Rule 5.4.6 (Special Urgency) below applies.

#### **5.4.5 Procedure before taking Key Decisions**

Subject to Rule 5.4.6 (Special Urgency) below, a 'key decision' may not be taken unless:

- a notice (called here a Forward Plan) has been published in connection with the matter in question;
- at least twenty eight clear working days have elapsed since the matter has first been published on the Forward Plan; and
- where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 5.6.6 (Executive Agenda).

#### **5.4.6 Special Urgency – 'Key Decision'**

An urgent item of business, which is deemed to be a 'key decision', that needs to be determined before the next scheduled meeting of the Executive and which cannot be dealt with under the existing Scheme of Delegation to Officers may be considered if the conditions set out below are followed.

The 'key decision' can only be taken:

- if it is impracticable to give the full notice, provided that the authority gives at least five days' clear notice to all members of the Overview and Scrutiny Management Commission, which can then call in the decision to check that it was genuinely urgent; or
- if it is so urgent there is not even time to give five clear days' notice, but the Chairman of the Overview and Scrutiny Management Commission has agreed that the key decision is urgent and cannot reasonably be deferred.
- where such a decision is taken by the Executive, it must be taken in public, except for items that are deemed Exempt Information as set out in Rule 8.10.3 (Part 8 of the Constitution).

#### **5.4.7 Report to Council – 'Key Decision'**

The Overview and Scrutiny Management Commission can require a report if it thinks that a 'key decision' has been taken which was not:

- included in the Forward Plan; or
- the subject of the general exception procedure; or
- the subject of an agreement with the Overview and Scrutiny Management Commission Chairman, or the Chairman/Vice-Chairman of the Council.

The Overview and Scrutiny Management Commission may then require the Executive to submit a report to the Council within such reasonable time as the Commission specifies. The power to require a report rests with the Commission, but is also delegated to the Head of Strategic Support, who shall require such a report on behalf of the Commission when so requested by the Chairman or any five Members. Alternatively the

requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Commission.

#### **5.4.8 Executive's Report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven clear working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Executive Leader is of the opinion that it was not a 'key decision' the reasons for that opinion.

#### **5.4.9 Quarterly Reports on Special Urgency Decisions**

In any event the Executive Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 5.4.6 (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

#### **5.4.10 Record of Decisions**

After any meeting of the Executive or any of its Committees, whether held in public or private, the Head of Strategic Support, or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable, usually within three working days. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### **5.5 Order of Business**

#### **5.5.1 Ordinary Meetings**

Meetings for the transaction of general business shall be held on such days as the Council decides and as specified in the timetable of meetings.

#### **5.5.2 Order of Business - Ordinary Meetings**

The order of business at an ordinary meeting of the Executive shall be to:

- (a) elect a person to preside if the Executive Leader or Deputy Leader are not present;
- (b) receive apologies for inability to attend the meeting;
- (c) approve the Minutes of the last meeting;
- (d) receive any declarations of interest from Members;
- (e) receive written questions from and provide answers to the public in relation to matters relating to the business of the Council;
- (f) receive petitions;
- (g) provide a response to petitions previously received;
- (h) deal with matters referred to the Executive (whether by the Overview and Scrutiny Management Commission, its Sub-Committee(s) or by the Council) for reconsideration by the Executive in accordance with

the provisions contained in the Overview and Scrutiny Rules of Procedure set out in Part 6 of this Constitution, or the Budget and Policy Framework Rules of Procedure as set out in Part 9 of this Constitution;

- (i) deal with matters set out in the agenda for the meeting, which shall indicate which are 'key decisions' and which are not in accordance with the Access to Information Rules of Procedure as set out in Part 8 of this Constitution;
- (j) consider reports from the Overview and Scrutiny Management Commission;
- (k) receive written questions from and provide answers to Members in relation to matters relating to the business of the Council prior to Part II matters;
- (l) exclude members of the public and the press and consider any Part II or confidential matters.

### **5.5.3 Extraordinary Meetings**

Extraordinary meetings of the Executive may be called at any time by the Executive Leader, or in his/her absence, the Deputy Leader, or by the Head of Strategic Support if they consider it necessary or appropriate.

### **5.5.4 Order of Business - Extraordinary Meetings**

The order of business at an extraordinary meeting shall be to:

- (a) elect a person to preside if the Executive Leader or Deputy Leader is not present;
- (b) receive apologies for inability to attend the meeting;
- (c) receive any declarations of interest from Members;
- (d) consider any business specified in the Summons to the meeting.

*[Note: No Public or Member Questions, Petitions or Motions may be dealt with at an Extraordinary Meeting.]*

### **5.5.5 Variation**

With the exception of business specified in (a)–(d) of Rule 5.5.2 (Order of Business – Ordinary Meetings) and (a)-(c) of Rule 5.5.4 (Order of Business – Extraordinary Meetings) above, the order of business may be varied at the discretion of the Executive Leader.

## **5.6 Meetings of the Executive**

### **5.6.1 Frequency of Meetings of the Executive**

The Executive will normally meet on a six-weekly basis at times to be agreed by the Executive Leader. The Executive shall meet at the Council's main offices or another location to be decided by the Executive Leader.

### **5.6.2 Adjustment to Dates**

The Executive Leader or Deputy Leader, in consultation with the Head of Strategic Support, may make any adjustments to the date, time and place of meetings considered necessary or desirable.



### **5.6.3 Electronic Communication Devices**

Members are permitted to use their Council issued electronic devices at Council meetings. If Members wish to use other devices during meetings they should inform the Chairman who will then make it clear to any members of the public attending that this activity is permissible. Members will need to consider whether using devices (tablets) other than those issued by the Council may distract them from participating and understanding information that is being shared at the meeting prior to a decision being made.

Councillors should switch their mobile phone or other equipment to silent mode, so that no disruption is caused to proceedings. If, at a Executive meeting, a Member's use of an electronic communication device is causing proceedings to be disrupted any Member of the Executive may move that the Member should desist from using the device. If the motion is seconded it should be put to the vote without discussion.

Members wishing to record meetings will need to do so in accordance with Appendix A to Parts 5 (Executive Rules of Procedure).

### **5.6.4 Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be four Members of the Executive.

### **5.6.5 Continuation of Meeting**

Meetings of the Executive should not normally continue past 10.00pm. If however the Executive Leader believes that business could be concluded by 10.30pm, a Motion under Rule 5.9.4 (Motions which may be Moved without Notice) must be moved and supported by a majority of those Executive Members present. All meetings will conclude by 10.30pm at the latest.

### **5.6.6 Executive Agenda**

The Head of Strategic Support will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules of Procedure (Part 8). The Head of Strategic Support will provide to every Member of the Executive an agenda at least five clear working days before a meeting unless the meeting is convened at shorter notice as a matter of urgency. The agenda will give the date, time and place of the meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

*[Note: Clear working days do not include day of agenda despatch or day of meeting.]*

The agenda and reports for meetings of the Executive will also be circulated electronically to all Members of the Council unless:

- any individual Member indicates that they do not wish to receive specified papers; or
- a report contains information or advice which the Council is unable to supply to Members not involved in the making of a decision because of any statutory provision or the terms of any agreement.

### **5.6.7 Presiding over Executive Meetings**

If the Executive Leader is present they will preside. In their absence, then the Deputy Leader will preside. If neither the Executive Leader nor Deputy Leader are present then a person appointed to do so by the Executive Leader, shall preside. In the latter case, the Executive Leader will notify the Head of Strategic Support before the meeting about who will preside.

### **5.6.8 Substitutes**

There will be no substitutes or co-optees for Executive Members.

### **5.6.9 Members' Attendance at Meetings of the Executive**

Members of the Council who are not Members of the Executive may attend meetings of the Executive and any Committee of the Executive. There is a general assumption that they will have the right to speak and be allowed to join in debates on any item on the agenda but this will be subject to the discretion of the Member presiding over the meeting. Only Members of the Executive may vote on items on the agenda.

### **5.6.10 Who can put Items on the Executive Agenda**

The Executive Leader may put on the agenda any item which he/she wishes whether or not authority has been delegated to the Executive, a Committee or any Member or Officer in respect of that item.

The Council, the Overview and Scrutiny Management Commission, its Sub-Committee(s) or any other Committee of the Council may place an item on the agenda of a meeting of the Executive.

Items may also be placed on the agenda of the Executive by the Chief Executive, Corporate Board and any Statutory Officer. Reports of Statutory Officers may not be deferred if, in the opinion of the Officer concerned, it is necessary for the report to be considered at the next meeting.

The Executive Leader and the Chief Executive will agree the agenda for each meeting of the Executive to ensure that the volume of business is manageable and appropriate information is available about any item placed on the agenda.

## **5.7 Executive Minutes**

### **5.7.1 Approval**

The Executive Leader shall move "that the Minutes of the meeting of the Executive held on (date) be signed as a correct record".

### **5.7.2 Accuracy**

Only the accuracy of the Minutes may be questioned and an amendment put forward to propose a change of wording. As soon as any such amendment has been agreed, the Executive Leader will sign the Minutes.

*[Note: Any amendments to the Minutes should be set out in the Minutes of the subsequent meeting and not marked on the original set of Minutes under discussion. However, if the Minutes are amended they should be annotated with the words "These Minutes have been amended".]*

### **5.7.3 Signing Minutes**

Minutes shall be submitted to and signed at the next meeting of the Executive which is not an extraordinary meeting.

## **5.8 Petitions**

The Council welcomes petitions and recognised that they are one way in which people can let the Council know about their concerns. Petitions will be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedure Rules for Dealing with Representations).

### **5.8.1 Notice of Petitions**

Where notice of a petition is given to the Head of Strategic Support by 10.00am seven clear working days before the meeting details will be included in the summons or agenda.

### **5.8.2 Presentation of Petitions by Members of Council**

Members of Council who receive a petition from a member of the public can either:

- present it at the appropriate meeting; or
- pass it to the appropriate Officer.

The Executive Leader will advise the Councillor presenting the petition how it will be dealt with. However, if the petition relates to a matter on the agenda for the meeting of the Executive at which it is presented it shall be dealt with at that meeting.

Members of the Council may present petitions directly to the Executive, a Committee or Sub-Committee and speak for up to five minutes on that petition. No further debate shall take place unless the relevant body receives a report on the matter.

Petitions relating to licensing or planning applications will normally be received by Officers during the Licensing or Planning consultation process.

## **5.9 Motions**

### **5.9.1 Scope of Motion**

Motions must relate to matters of concern to the District of West Berkshire.

### **5.9.2 Submission of Motion**

At any meeting of the Executive, except an Extraordinary Meeting that does not appear in the timetable of meetings, a Notice of Motion may be submitted under this Rule for consideration.

### **5.9.3 Consideration of Motion**

The Executive can debate the Motion at the meeting, or if deemed appropriate, refer the Motion to Officers for a report to be considered at a subsequent meeting.

### **5.9.4 Motions which may be Moved without Notice**

The following Motions may be moved without notice:

- to appoint a Chairman of the meeting if the Executive Leader or Deputy Leader are absent.
- Motions relating to:
  - accuracy of Minutes;
  - closure or adjournment of the meeting;
  - order of or next business.
- to refer any matter to the Council or a Committee, or a Statutory Officer.
- to receive minutes and reports and adopt recommendations of Committees and Officers and any consequential Motions.
- to withdraw a Motion or amendment with leave of the Executive Leader.
- to amend a Motion.
- to extend the time limit for speeches.
- to allow the continuation of a meeting past 10.00pm.
- to suspend a Procedure Rule in accordance with Rule 5.10.1 (Suspension of Rules of Procedure) below.
- to exclude the press and public in accordance with the statutory provisions.
- that the question be now put.
- that a Member named under Rule 5.14 (Behaviour of Members) be not further heard or leave the meeting
- to allow a member of the public to speak in accordance with Rule 5.17.4. (Speaking).
- That a Member named under Rule 5.6.3 (Electronic Communication Devices) be prevented from further using their electronic communication device at the meeting or leave the meeting.

*[Note: Any Procedure Rule may be suspended in accordance with Procedure Rules 5.10.1 (Suspension of Rules of Procedure) and 5.10.2 (Variation/ Revocation of Rules of Procedure) provided the effect either individually or cumulatively is not to suspend all Procedure Rules.]*

#### **5.9.5 Motions on Expenditure or Revenue**

Any Motion which would materially increase expenditure, involves capital expenditure, or materially reduces the revenue of the Council, or involves the disposal of a significant asset, shall when seconded stand adjourned without discussion to the next meeting of the Executive, with a report back to the next ordinary meeting of the Executive. This Rule does not apply to any Motion proposed at the Budget meeting of the Executive.

## **5.10 Suspension, Variation and Revocation of Rules of Procedure**

### **5.10.1 Suspension of Rules of Procedure**

With the exception of Rules 5.7.1 (Approval of Minutes) and 5.16.3 (Recording of Votes) any Procedure Rule may be suspended for any business at a meeting where its suspension is moved provided either:

- notice of Motion has been given; or
- at least one half of the whole number of Members of the Executive are present.

*[Note: See Rule 5.9.4 (Motions which may be Moved without Notice) above.]*

### **5.10.2 Variation/Revocation of Rules of Procedure**

Any Motion to vary or revoke the Rules of Procedure shall when proposed and seconded stand referred without discussion to the next ordinary meeting of the Executive.

## **5.11 Procedure for Reports at Executive Meetings**

### **5.11.1 Executive Report**

The Executive Leader or relevant Member of the Executive shall present the report and move the recommendation requiring the Executive's approval. Upon being seconded the matter is open for debate, and Members of the Executive may make statements and ask questions of the Mover as appropriate. The Rules of Debate set out in 5.13 will apply.

### **5.11.2 Confidentiality and Non-Disclosure of Reports**

Reports to Committees, Sub-Committees, Panels or Task Groups which are "not for publication" in accordance with the statutory provisions on the grounds that they contain confidential or exempt information shall be treated as confidential and shall not be disclosed by a Member or Officer of the Council unless the Committee, Sub-Committee, Panel or Task Group decides otherwise.

After the meeting of the Committee, Sub-Committee, Panel or Task Group the information shall continue to be treated as confidential except insofar as it ceases to be confidential by virtue of the statutory provisions or its inclusion in the Minutes of the meeting which are made available for public inspection.

## **5.12 Questions**

### **5.12.1 Public Written Questions**

Members of the public residing or working in the District, or their representative, may ask the appropriate Member of the Executive any question relating to the business of the Council, a matter for which the Council has responsibility or the wellbeing of West Berkshire. The Executive Leader will nominate an appropriate person to provide an answer if the questioner has not indicated from whom they would prefer to

receive a response. Such questions may only be asked at ordinary meetings of the Executive.

Questions must be submitted in writing by post or electronic mail to the Head of Strategic Support and must specify the name, address and contact telephone number of the person asking the question.

Questions that do not relate to an item of business for that meeting of the Executive must be submitted no later than 10.00am, seven clear working days before the meeting.

Questions relating to an item of business for that meeting of the Executive must be submitted no later than 10.00am, two clear working days before the meeting.

#### **5.12.2 Members' Written Questions**

Members may ask any Member of the Executive any question relating to the business of the Council or the wellbeing of the West Berkshire. Such questions may only be asked at ordinary meetings of the Executive.

Questions indicating the name of the person submitting it, must be submitted in writing by post or electronic mail to the Head of Strategic Support.

Questions must be submitted no later than 10.00am, seven clear working days before the Executive meeting.

Subject to the consent of the Executive Leader a question may be considered by the Executive if it is submitted to the Head of Strategic Support by 10.00am on the day of the meeting.

Councillors must confine their contributions to questions and answers and must not make statements or attempt to debate the matter. Where the Executive Leader feels that a Councillor is contravening this rule they will stop the Councillor concerned from speaking on this matter.

#### **5.12.3 Scope of Questions**

The Monitoring Officer or Head of Strategic Support may reject a question or a supplementary question if it is not about a matter over which the Council has responsibility, it is defamatory, frivolous, it is abusive, it is substantially the same as a question which has been put at a meeting of the Executive in the past six months, it requires the disclosure of confidential or exempt information or relates to a licensing or planning application.

Where a question has been rejected a letter will be sent to the questioner setting out the reasons for the rejection.

#### **5.12.4 Written Questions concerning the Thames Valley Police Authority (TVPA) and Royal Berkshire Fire and Rescue Service (RBFRS)**

Subject to the Rules of Procedure on receipt, a Member may also ask the person nominated by the TVPA a question on the functions or performance of that Authority or one of the Council's representatives on the RBFRS a question in relation to the functions or performance of the RBFRS.

**5.12.5 Member and Public Written Questions – Procedure at Executive**

Subject to Rule 5.12.9 (Multiple Member and Public Questions) below, questions shall be taken in order of receipt and shall be asked by saying “I ask my question as set out in the Agenda” and then answered without discussion.

Any Executive Member may decline to answer a question or may nominate another Member to answer a question on their behalf.

**5.12.6 Answers to Questions**

An answer may take the form of:

- a direct oral answer;
- a reference to a Council publication containing the desired information;
- a written answer where a reply cannot conveniently be given orally or because of a lack of time.
- The Executive Leader in consultation with the Monitoring Officer may reject any supplementary questions on any of the grounds in rule 5.12.3 (Scope of Questions).

**5.12.7 Supplementary Questions**

A person asking a written question may ask one supplementary question arising directly out of the answer given to the original question but the supplementary question shall be relevant to the original question and shall not introduce any new subject matter. For the avoidance of any doubt the Executive Leader will invite the questioner to ask a supplementary question if the questioner has one.

**5.12.8 Time Limit on Questions**

The time allowed for written and supplementary questions at any meeting shall not exceed thirty minutes for public questions or one hour for Members' questions or such longer period as the Executive Leader may permit. Questions not answered within that period will receive a written reply.

**5.12.9 Multiple Member and Public Questions**

If any person(s) submit(s) more than one question at any meeting only their first question shall be asked and answered. If after all other questions have been asked and answered there is sufficient time available the Executive Leader may ask the questioner(s) to ask their further question(s) in such order as the Executive Leader determines.

**5.12.10 Order of Questions**

The Executive Leader has the discretion to alter the order in which questions are asked.

**5.12.11 Absence of Questioner**

If a person who has submitted a question is not present when the question is called, the question may, with the consent of the Executive Leader, be asked by any other person.

## **5.13 Rules of Debate**

### **5.13.1 Seconding**

A Motion or amendment shall not be discussed until it has been formally moved and seconded. When seconding a Motion or amendment, a Member may reserve their speech until a later period in the debate.

### **5.13.2 Writing**

The Executive Leader may require a Motion or amendment to be put into writing before it is discussed or voted upon.

### **5.13.3 Speech content**

Members shall direct speeches to the matter under discussion, a point of order or personal explanation.

### **5.13.4 Speech length**

The Chairman may terminate a speech by a Member if he/she considers that it is not contributing to the effective working of the meeting.

### **5.13.5 Amendments**

An amendment to a Motion must be relevant to the Motion and will either be:

- (a) to refer a subject of debate to Council, a Committee or Statutory Officer for consideration or reconsideration unless the Executive Leader rules otherwise in the interests of expedience; or
- (b) to leave out words; or
- (c) to leave out words and add others; or
- (d) to insert or add words;
- (e) as long as the effect of (b) to (d) is not to negate the Motion or to introduce a new subject matter.

## **5.14 Behaviour of Members**

### **5.14.1 Disorderly Conduct**

If, at a meeting of the Executive, a Member:

- persistently disregards the ruling of the Executive Leader; or
- behaves irregularly, improperly or offensively; or
- wilfully obstructs the business of the Executive;
- any Member may move:
  - that the Member named not be heard any further;
  - that the Member named shall leave the meeting; and
- if the Motion is seconded, it be put to the vote without discussion.

### **5.14.2 Suspension of Sitting**

If there is a general disturbance or if the named Member or member of the public continues to misbehave after a Motion under Rule 5.9.4 (Motions which may be Moved without Notice) has been carried and orderly



business is prevented the Executive Leader may adjourn the meeting for as long as they consider necessary.

## **5.15 Rescinding an Earlier Resolution**

### **5.15.1 Six Months Rule**

A Motion may not be moved to rescind a decision made at a meeting of the Executive within the preceding six months.

### **5.15.2 Rejected Motion**

A Motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the last six months cannot be moved.

### **5.15.3 Executive Decision**

The Executive may, by a majority of those voting, rescind a decision that it has previously made.

## **5.16 Voting**

### **5.16.1 Method of Voting**

Voting shall be by show of hands. Unless the Constitution or the law provides otherwise any matter will be decided by a simple majority of those present and permitted to vote on the matter at the time the question is put.

### **5.16.2 Chairman's Casting Vote**

In the event of equal numbers of votes for and against the Executive Leader (or standing Chairman) will have a second or casting vote.

### **5.16.3 Recording of Votes**

A record of how a vote is, or votes are, cast (as the case may be) will be made if:

- before a vote is taken any Member requests that the vote be recorded and three other Members support that request by standing in their places. In these circumstances the Monitoring Officer or their representative will call the name of each Member present and each Member will respond for or against the Motion or abstaining;
- immediately after a vote has been taken any Member requests that their vote for or against or their abstention be recorded.

### **5.16.4 Appointments to Outside Bodies**

If more than two persons are nominated for any position to be filled by the Executive on an outside body the outcome shall be determined by a simple majority of votes. If there is no majority the Executive can decide not to appoint. Appointments to Outside Bodies will be made in accordance with Appendix J to Part 13 of the Constitution (Protocol for Council Representation on Outside Bodies).

Note: Appointments to Outside Bodies have been delegated to the Leader of the Council.

## **5.17 Press and Public**

### **5.17.1 Admission**

The press and public shall be permitted to attend meetings of the Executive unless excluded under the relevant provisions of the Local Government Act 1972 and in accordance with Part 8 of the Access to Information Rules of Procedure or any other legislative provision.

### **5.17.2 Exclusion of Employee**

During any discussion on the appointment, promotion, dismissal, salary, conditions of service or conduct of a Council employee, the employee shall not be present except to make representations on their own behalf either personally or by or with such representatives as the Executive may agree to receive.

### **5.17.3 Removal**

If a member of the public interrupts the proceedings at any meeting the Executive Leader may, after warning, order their removal from the meeting of the Executive. If there is a general disturbance the Executive Leader shall order that the part of the room open to the public be cleared.

### **5.17.4 Speaking**

Members of the public may only speak at a meeting if the Executive so resolves or when presenting a petition or asking a question in accordance with these Rules of Procedure.

### **5.17.5 Televising and Sound Recording of Meeting**

The televising and sound recording of meetings will be permitted in accordance with the protocol relating to this matter. The protocol is available below at Appendix A to Part 5.

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## Appendix A

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# Protocol Relating to Televising and Sound Recording of Meetings

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The Openness of Local Government Bodies Regulations came into effect on 6th August 2014. The Regulations give the public the right to film, audio record, take photographs and use social media and the internet at meetings to report on any meetings that are open to the public.

The Council's public meetings are the Council, Executive, Planning Committees, Licensing Committee, Governance and Ethics Committee, Health and Wellbeing Board, Personnel Committee, and Overview, Scrutiny Management Commission and its Sub-Committee(s).

The Protocol is set out below:

1. Although no prior permission is required, members of the public who wish to use any of the above listed recording mechanisms are advised to inform the Head of Strategic Support in advance.
2. The Head of Strategic Support shall ensure "reasonable facilities" are provided to facilitate reporting. This may include space to view and hear the meeting, seats, and a desk.
3. Television crews or persons undertaking audio or visual recording shall comply with the requests of the Head of Strategic Support or their representative as to arrangements for recording, including:
  - (a) filming, photography or audio recordings should not be disruptive and distracting to the good conduct of the meeting and recording devices must be set in silent mode
  - (b) no flash or additional lighting is permitted
  - (c) filming, photography or audio recordings should normally be taken from one fixed position and must not obstruct others from observing proceedings
  - (d) attendees would be advised at the start of the meeting that is being filmed, photographed or audio recorded
  - (e) a person undertaking the filming or audio recording shall respect any request from members of the public that they do not wish to be filmed
  - (f) There shall be no oral commentary permitted in the Meeting
  - (g) There shall be no filming of children present at the Meeting.
4. The Head of Strategic Support shall advise the relevant Chairman or Vice-Chairman of the meeting of the method in which it is being recorded so that they may notify the attendees of the meeting.

Members of the public who have given notice of their wish to speak at any public meeting shall be able to decide to “opt out” of being recorded. This information will be relayed to the person wishing to record the meeting.

5. The Chairman shall be advised of any “objections to being recorded by members of the public speaking and shall ensure that before debate commences on any item the meeting and public attending are absolutely clear about who can and cannot be recorded.
6. No audio or visual recording will be permitted, and persons present for those purposes will be required to leave the meeting, if a resolution is passed under Section 100A of the Local Government Act 1972 excluding the press and public from the meeting.
7. No link will be permitted to the Council’s sound recording equipment, neither may any equipment be placed on tables within the area occupied by Members or Officers.
8. If there is a breach of this Protocol, the Chairman may at their discretion, after a warning, order that no further sound recording shall take place during the meeting.