Constitution
of Eden District Council

Parts 4-7

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A Council Procedure Rules

1) Annual Meeting of the Council

a) Timing and business

The Annual Meeting of the Council shall be held at the Town Hall, Penrith:

In a year when there is an ordinary election of Members, the Annual Meeting will take place within 21 days of the retirement of the outgoing Members.

In any other year, the Annual Meeting will take place on a suitable Thursday in May at 6.45pm.

The Annual Meeting will:

- elect a person to preside if the Chairman of Council is not present;
- elect the Chairman of Council;
- elect the Vice Chairman of Council;
- approve the minutes of the last meeting;
- receive any announcements from the Chairman and/or head of the paid service;
- elect the Leader
- formally appoint the members to the executive as proposed by the Leader
- appoint at least one Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council (as set out in Part 3 of this Constitution) nor are executive functions
- decide the allocation of seats on committees and sub committees in accordance with the rules relating to political proportionality
- decide the list of outside bodies on which the Council will seek representation
- receive nominations of Members to serve on each committee and outside body; and
- appoint all members of those committees and outside bodies except where the appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- approve a programme of ordinary meetings of the Council for the year; and
- consider any business set out in the notice convening the meeting.

b) **The Chairman of the Council**

The Chairman of the Council shall be elected annually.

No member of the Executive may be elected as the Chairman or Vice-Chairman of Council.

2) Ordinary Meetings

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

Ordinary meetings will:

- select a person to preside if the Chairman and vice Chairman are not present;
- approve the minutes of the last meeting;
- receive any announcements from the Chairman, the Leader, members of the Executive or the Head of Paid Service;
- receive an Executive Report for information;
- receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- receive representations, answers to questions and evidence from members of the public and/or Members of the Council at the discretion of the Chairman;
- deal with any business from the last Council meeting;
- receive reports from the Executive and the Council's committees and receive questions and answers on any of those reports;
- receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- consider motions; and
- consider any other business specified in the summons to the meeting, and reports of the Scrutiny Committees for debate.

3) Extraordinary Meetings

a) **Calling extraordinary meetings**

Those listed below may request the Director of Corporate and Legal Services to call Council meetings in addition to ordinary meetings:

i) the Council by resolution;

ii) the Chairman of the Council;

iii) the Monitoring Officer; and/or

iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

b) the only item which may be considered at an extraordinary meeting is the matter for which the meeting has been called. No questions or notices on motion in addition to this item will be permitted.

c) the requisition to which rule a) iv) above applies shall set out the nature of the item to be considered at the proposed meeting and why this is urgent.

4) Appointment of Substitute Members of Committees

a) **Allocation**

As well as allocating seats on committees, the Council will allocate seats in the same manner for substitute members.

Pursuant to Section 102 of the Local Government Act 1972, no member shall be appointed to act as a substitute to any meeting of the Council unless his/her position as a substitute has been approved by the full Council.

b) **Number**

The Council will appoint for each committee the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee, up to a maximum of 4.

c) **Powers and duties**

Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

d) **Substitution**

Substitute members may attend meetings in that capacity only:

- to take the place of the ordinary member for whom they are the designated substitute;
- where the ordinary member will be absent for the whole of the meeting; and
- after notifying the committee chairman at the start of the meeting of the intended substitution.

5) Time and Place of Meetings

The time and place of meetings will be determined by the Director of Corporate and Legal Services and notified in the summons.

6) Notice and Summons to Meetings

The Director of Corporate and Legal Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Director of Corporate and Legal Services will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

No report shall appear as an item on the summons for a meeting unless the opportunity has been afforded the Monitoring Officer and the Chief Finance Officer to consider the legal and financial implications of the report and the impact, if any, on the budget and policy framework.

In the event of an urgent matter requiring consideration, the report will be included on the summons or be considered as an urgent item, in accordance with the Access to Information Procedure Rules below, and with the agreement of the Monitoring Officer and the Chief Finance Officer.

7) Chairman of Meeting

The person presiding at the meeting may exercise any power or duty of the Chairman in relation to the conduct of a meeting.

8) Quorum

The quorum of a meeting of Council will be ten members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting or extraordinary meeting convened for that purpose.

9) Duration of Meeting

Majority Vote to Continue

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next meeting.

10) Questions by the Public

a) **General**

A member of the public may ask a question including one of the Leader or a member of the executive at any meeting of the Council.

b) **Order of questions**

Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.

c) **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Corporate and Legal Services no later than midday 1 clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting. Each question must give the name and address of the questioner.

d) **Number of questions**

At any one meeting no person may submit more than 1 question and no more than 2 such questions may be asked on behalf of one organisation.

e) **Scope of questions**

The Director of Corporate and Legal Services may reject a question if it:

- is not about a matter for which the local authority has a responsibility or does not affect the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past twelve months; or
- requires the disclosure of confidential or exempt information.

f) **Record of questions**

The Director of Corporate and Legal Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put if applicable. Rejected questions will include reasons for rejection.

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

g) **Asking the question at the meeting**

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, he/she may ask the Chairman or the Director of Corporate and Legal Services to put the question on his/her behalf. The Chairman may ask the question on the questioner's behalf or indicate that a written reply will be given.

h) **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10e) above.

i) **Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

j) **Reference of question to a committee**

Any member may move that a matter raised by a question be referred to the Executive or an appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

The Chairman will invite a Member to respond to the question, if appropriate. Ordinarily the Chairman will invite the Leader or the Member of the Executive with responsibility for the issue concerned to respond to the question.

11) Public/Member Participation at Meetings

a) Any person, including a Member of the Council, who attends a meeting of the Council, the Executive or its Committees or Sub-Committees may be invited by the Chairman of that meeting to make representations, answer questions or give evidence in relation to any matter for which the Council has responsibility or which falls within the terms of reference of the Executive, a Committee or Sub-Committee of the Council.

b) Any person who wishes to make representations, answer questions or give evidence to any meeting of the Council or of its Executive or any of its Committees should request to do so in writing to the Director of Corporate and Legal Services by no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting.

c) Any person who wishes to ask a question may do so in accordance with paragraphs 10 or 12 as applicable.

d) The request should set out the nature of any representations or evidence that the member of the public or Member of the Council wishes to raise before the meeting. The Director of Corporate and Legal Services will notify the Chairman of the meeting of the receipt of the request and of its nature. The Chairman of the meeting will decide whether or not to permit the member of the public to make representations give evidence or answer questions and the Director of Corporate and Legal Services will notify the individual concerned of the Chairman's decision. The Chairman's decision shall be at his sole discretion. Ordinarily the Chairman can be expected to agree to the request. The Chairman may refuse a request if the subject matter is considered to be irrelevant, vexatious, frivolous, repetitious, defamatory or is otherwise inappropriate. The Chairman of the meeting may limit the time during which the representations may be made or the evidence given.

e) Where the Member has a prejudicial interest in the matter, he/she must withdraw from the meeting immediately after speaking, in accordance with the Members' Code of Conduct.

12) Questions by Members

a) Questions on Reports

A member of the Council may ask the Leader or the Member of the Executive or the Chairman of a committee any question without notice upon an item of the report of the executive or that committee when the item is being received or is under consideration by the Council.

b) Questions on Notice at full Council

Subject to Rule 12c) below, a member of the Council may ask the Leader, the Member of the Executive or the Chairman of any committee a question on any matter in relation to which the Council has powers or duties or which affects the District of Eden.

c) Notice of Questions

A member may only ask a question under Rule 12b) if either;

- he/she has given notice by delivering the question in writing or by electronic mail to the DCLS no later than midday 1 clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting; or
- the question relates to urgent matters, he/she has the consent of the Leader or member of the Executive or Chairman to whom the question is to be put and the content of the question is given to the Director of Corporate and Legal Services prior to the meeting.

d) Response

An answer may take the form of:

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

e) Supplementary question

A member asking a question under Rule 12b) may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

13) Motions on Notice

a) Notice

Except for motions which can be moved without notice under Rule 14 below, written notice of every motion, signed by the member giving the notice, must be delivered to the Director of Corporate and Legal Services

not later than 5 clear working days (that is not counting the day of the meeting or the day of delivery) before the date of the meeting. These will be entered in a book open to public inspection.

b) **Motion set out in agenda**

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

c) **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the District of Eden.

d) **Exclusion of Notices of Motion Out of Order**

The Chairman, on the advice of the Director of Corporate and Legal Services, may exclude from the Council summons any notice of motion which may be out of order, or he/she may make such corrections therein as will bring it into due form with the approval of the mover(s).

In accordance with Rule 15 below, if a motion seeks to vary or reverse a decision made by Council within the previous twelve months it will not be included in the summons.

e) **Motions not moved**

If a motion set out in the summons is not moved by the member(s) who gave notice, it shall be treated as withdrawn and shall not be moved without fresh notice.

f) **Motions to be referred to Committee**

Motions falling within the remit of a committee, shall, after being moved and seconded, be automatically referred to the relevant committee. However the Chairman has the power to allow them to be dealt with at the Council meeting.

14) Motions Without Notice

The following motions may be moved without notice:

- to appoint a Chairman of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual;
- to require a recorded vote to be taken under Rule 17e) below;
- to approve or refuse recommendations of committees or officers and any resolutions following from such approval or refusal;

- to grant leave to withdraw a motion;
- to amend a motion;
- to proceed to the next business;
- that the question be now put; (other than by a member who was the last speaker)
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond 3 hours in duration
- to suspend a particular Council procedure rule in accordance with Rule 25a) below;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a member named under Rule 21d) or to exclude them from the meeting under Rule 21e); and
- to give the consent of the Council where its consent is required by this Constitution.

15) Previous Decisions and Motions

a) **Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past twelve months cannot be moved unless the Notice of Motion is signed by at least 5 members.

b) **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past twelve months cannot be moved unless the notice of motion or amendment is signed by at least 5 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for twelve months.

16) Rules of Debate

a) **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

b) **Motion in writing**

Unless notice of the motion has already been given or the motion is set out as a recommendation, the motion or an amendment, as soon as it is seconded will be written down and agreed by the proposer and read out prior to any discussion.

c) **Seconder's speech**

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

d) **Content and length of speeches**

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

e) **When a member may speak again**

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

i) to speak once on an amendment moved by another member;

ii) to move a further amendment if the motion has been amended since he/she last spoke;

iii) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);

iv) in exercise of a right of reply

v) on a point of order; and

vi) by way of personal explanation.

f) **Amendments to motions**

i) An amendment to a motion must be relevant to the motion and will either be:

(1) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(2) to leave out words;

(3) to leave out words and insert or add others; or

(4) to insert or add words;

(5) as long as the effect of (2) to (4) is not to negate the motion.

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

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

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

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

g) **Alteration of motion**

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

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

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

h) **Withdrawal of motion**

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

i) **Right of reply**

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

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

The mover of the amendment has the penultimate right of reply to the debate on his or her amendment but has no right of reply to the mover of the original motion.

j) **Motions which may be moved during debate**

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

- to withdraw a motion;
- to amend a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond 3 hours in duration;

- to exclude the public and press in accordance with the Access to Information Rules; and
- to not hear further a member named under Rule 21d) or to exclude them from the meeting under Rule 21e).

k) **Closure motions**

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

- to proceed to the next business;
- that the question be now put;
- to adjourn a debate; or
- to adjourn a meeting.

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

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

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

l) **Point of order**

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

m) **Personal explanation**

A member may make a personal explanation at any time. A personal explanation may 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.

17) Voting

a) Majority

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

b) Chairman's casting vote

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

c) Show of hands

Unless a ballot or recorded vote is demanded under Rules 17d) and 17e) below, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

d) Ballots

The vote will take place by ballot if 5 members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

e) Recorded vote

If five members present at the meeting of Council demand it, the Chairman will ask 'who rises to support a named vote?' and the names for and against the motion or amendment or abstaining from voting will be taken down in writing by the Director of Corporate and Legal Services and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

f) Right to require individual vote to be recorded

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.

g) Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

18) Minutes

a) Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting

be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

b) **No requirement to sign minutes of previous meeting at extraordinary meeting**

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

c) **Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

19) Record of Attendance

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

20) Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

21) Members' Conduct

a) **Smoking at Meetings**

There shall be no smoking at meetings of the Council, committees or sub-committees.

b) **Standing to speak**

When a member speaks at full Council he/she must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

c) **Chairman standing**

When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

d) **Member not to be heard further**

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

e) **Member to leave the meeting**

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

f) **General disturbance**

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

22) Disturbance by Public

a) **Removal of member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order the removal of that person from the meeting room.

b) **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

23) The Council's Seal

a) **Custody**

The Common Seal of the Council shall be kept in a safe place in the custody of the Director of Corporate and Legal Services.

b) **Affixing**

Except where it is otherwise provided by statute, the Director of Corporate and Legal Services, or his/her deputy, will authorise the affixing of the Common Seal of the Council to any documents necessary to give formal effect to any act or decision authorised by the Council or any of its committees.

c) **Attestation**

The seal will be attested by the Chairman of the Council and by the Director of Corporate and Legal Services or his/her deputy. An entry of every sealing of a document will be made in a book provided.

24) Committees and Sub-Committees

a) **Application of Council Rules of Procedure**

All of the Council Rules of Procedure apply to meetings of full Council. The application of these rules to committees and sub-committees is set out in the Committee Procedure Rules below. None of the rules apply to meetings of the Executive.

b) **Appointment of Committees**

The Council shall at its Annual Meeting appoint such Committees as are necessary to carry out the work of the Council but, subject to any statutory provisions in that behalf.

The following shall be the Committees of the Council and shall consist of the number of members specified opposite each committee:

Committees	
Planning Committee	11
Licensing Committee	10
Environment and Economy Panel	13
Housing and Community Panel	13
Standards Committee	9
Human Resources and Appeals Committee	9
Accounts and Governance Committee	9

The powers and duties of each Committee are those set out in the Council's scheme of Delegation to Committees and Sub-Committees.

c) **Election of Chairmen of Committees**

Council will appoint the Chairs of all Committees, except the Standards Committee, at the annual meeting. The Standards committee will appoint a Chair, who must be an independent non-elected member of the Committee, at its first meeting following the annual meeting. Each committee, will, at the first meeting following the Annual Meeting of the Council, before proceeding to any other business, elect a Vice Chairman for the year. In the absence from the meeting of a Chairman (and the Vice Chairman) a Chairman for that meeting may be appointed.

d) **Attendance of Members**

A member may attend a meeting of a committee on which he/she does not sit, whether or not he/she attends as a representative of another committee or where business affecting that member's ward is to be discussed.

25) Operation of Council Procedure Rules

a) **Suspension**

All of these Council Rules of Procedure except Rule 17f) and 18b) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

b) **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will be on written notice duly given and set out on the Council summons or in committee proceedings accompanying such summons.

c) **Provision to Members**

A copy of these Rules shall be given to every member of the Council upon his/her Acceptance of Office.

d) **Interpretation**

The ruling of the Chairman of the meeting as to the construction or application of any of these Rules or as to any proceedings of the meeting shall not be challenged at any meeting of the Council or its committees.

References in these Rules to statutes shall be deemed to include any statutory modification or re-enactment for the time being in force.

26) Public Arrangements - Petitions

a) This Standing Order shall apply to ordinary meetings of Council, except the Annual Meeting.

b) A person who lives, works or studies in the Eden District may present a petition about any matter on which the Council has power to act.

c) Petitions containing 520 signatures or more will be subject to debate by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting.

d) Details of each petition to be submitted to Council should be delivered to the Director of Corporate and Legal Services no later than ten working days before the meeting of the Council concerned.

e) Only the petition organiser may speak and such speech shall not exceed five minutes inclusive of the reading of the substance of the petition. At the conclusion of the speech the petition will be discussed by councillors for a maximum of fifteen minutes.

27) Presentations to Council by the Executive and Member Involvement

a) The Leader shall, subject to the qualifications in sub-paragraph (c) below determine a programme of presentations by individual Members of the executive to each ordinary meeting of the Council on the decisions that they have made but primarily about the major issues arising in the foreseeable future within their portfolio of responsibilities.

b) Each presentation shall be subject to a maximum period of ten minutes which may only be extended by a further five minutes at the discretion of the Chairman of the Council

c) The Leader's programme of presentations shall be devised at his/her discretion subject to the following rules:

i) Notice of the intended programme shall be given at the Annual Meeting when the Leader is notifying Council of his/her Executive for the forthcoming municipal year.

ii) The Leader (or the Deputy Leader in the absence of the Leader) shall make the first presentation at the June Council meeting outlining his/her priorities for the municipal year in addition to any matters arising from sub-paragraph (a) above in respect of the Leader portfolio.

iii) There shall be a maximum of two such presentations to each ordinary meeting of Council.

iv) Each portfolio must be the subject of at least one presentation in each municipal year.

v) In the event of a change of Leader during the municipal year, the incoming Leader shall be empowered to change the programme of presentations provided:

(1) notice is given to the first available Council meeting;

(2) the qualifications to the Leader's discretion set out in this standing order are observed.

d) At the conclusion of the presentation, Members shall be able to ask questions without notice subject to each Member being limited to one question each plus one short related supplementary to each question.

e) Question time on each presentation shall, subject to the discretion of the Chairman, be limited to twenty minutes.

B Access to Information Procedure Rules

1) Scope

These rules apply to all meetings of the Council, Scrutiny Board and Panels, regulatory committees, joint committees, the Standards Committee and public meetings of the executive (together called meetings).

2) Additional Rights to Information

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

3) Rights to Attend Meetings

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

4) Notices of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Penrith (the designated office).

5) Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, a revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is sent to Members.

6) Supply of Copies

The Council will supply a copy of:

- any agenda and reports which are open to public inspection;
- any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- if the Director of Corporate and Legal Services thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage and any other costs.

7) Access to Minutes After the Meeting

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

a) the Minutes of the meeting, or the record of decisions taken, together with the reasons, for any meeting of the Executive or of any individual member of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

c) the agenda for the meeting; and

d) reports relating to items when the meeting was open to the public.

8) Background papers

a) **List of background papers**

The author of any report will set out a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

i) Disclose any facts or matters on which the report or an important part of the report is based; and

ii) Have been relied on to a material extent in preparing the report other than published works or any document which discloses exempt or confidential information (as defined in Rule 10).

b) **Public inspection of background papers**

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.

9) Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents (as detailed within this Constitution) is kept and available to the public at the designated office.

10) Exclusion of Access by the Public to Meetings

a) **Confidential information - requirement to exclude public**

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

b) **Exempt information - discretion to exclude public**

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Human Rights Act 1998.

c) **Meaning of confidential information**

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

d) **Meaning of exempt information**

Exempt information means information falling within the 7 categories overleaf (subject to qualifications):

Schedule 12A

Access to Information: Exempt Information

Part 1

Descriptions of Exempt Information: England

1) Information relating 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 relations 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 under or 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.

   In respect of Standards Committee or Sub-Committee of a Standards Committee the following descriptions of exempt information are added:

7A Information which is subject to any obligations of confidentiality.

7B Information which relates in any way to matters concerning national security.

7C The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Part 2

Qualifications: England

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

   a) the Companies Act 1985[3];

   b) the Friendly Societies Act 1974[4];

   c) the Friendly Societies Act 1992[5];

   d) the Industrial and Provident Societies Acts 1965 to 1978[6];

   e) the Building Societies Act 1986[7]; or

   f) the Charities Act 1993[8].

9) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992[9].

10) Information which

   a) falls within any of paragraphs 1 to 7 above; and

   b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

   c) is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11) Exclusion of Access by the Public to Reports

If the Director of Corporate and Legal Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12) Application of Rules to the Executive

Rules 13 - 21 apply to the executive and its committees. If the executive or its committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 12.3 of the Constitution.

If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

The term “executive decision” refers to a decision relating to an executive function. An executive decision may be taken by an Executive Member individually, the Executive as a whole, or an officer exercising powers granted to him/her by the Executive (delegated powers) or exercising statutory powers in relation to an executive function. Some of the rules apply to different types of executive decisions. The meaning of the word “executive” used in these rules or elsewhere in the Council’s Constitution is set out in Article 7 and includes one or more of these possible decision makers.

13) Procedure before taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

a) a notice (called here a forward plan) has been published in connection with the matter in question;

b) at least 5 clear days have elapsed since the publication of the forward plan; and

c) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings) above.

14) The Forward Plan

a) **Period of forward plan**

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working day of the second month covered in the preceding plan.

b) **Contents of forward plan**

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

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

ii) the date on which, or the period within which, the decision will be taken;

iii) the identity of the principal groups whom the Executive proposes to consult before taking the decision;

iv) the means by which any such consultation is proposed to be undertaken;

v) the steps any person might take who wishes to make representations to the executive about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

vi) a list of the documents submitted to the decision taker for consideration in relation to the matter.

c) **Publishing the forward plan**

The forward plan must be published at least 14 days before the start of the period covered. The Director of Corporate and Legal Services will publish once a year a notice in at least one newspaper circulating in the area, stating:

i) that key decisions are to be taken on behalf of the Council;

ii) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

iii) that the plan will contain details of the key decisions to be made for the four month period following its publication;

iv) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;

v) that each plan will contain a list of the documents submitted to the Executive for consideration in relation to the key decisions in the plan;

vi) 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;

vii) that other documents may be submitted to the Executive;

viii) the procedure for requesting details of documents (if any) as they become available; and

ix) the dates in 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.

15) General Exception to Requirement to Give Notice in the Forward Plan

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;

b) the Director of Corporate and Legal Services has informed the chair of a 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;

c) the Director of Corporate and Legal Services has made copies of that notice available to the public at the principal office of the Council; and

d) at least 5 clear days have elapsed since the Director of Corporate and Legal Services complied with b) and c).

Where such a decision is taken collectively, it must be taken in public subject to the provisions of these rules concerning confidentiality.

16) Special Urgency in Case of Key Decisions

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the Executive, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of the relevant scrutiny committee is unable to act, then the agreement of the Chairman, or in his/her absence the Vice-Chairman will suffice.

17) Reports to Council Concerning Key Decisions

a) **When a scrutiny committee can require a report**

If a scrutiny committee thinks that a key decision has been taken which was not:

i) included in the forward plan; or

ii) the subject of the general exception procedure; or

iii) the subject of an agreement with a relevant scrutiny committee chair, or the Chairman or Vice-Chairman under Rule 16;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Director of Corporate and Legal Services, who shall require such a report on behalf of the committee when so requested by the chair or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

b) **Leader's report to Council**

The Leader will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 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 Leader is of the opinion that it was not a key decision the reasons for that opinion.

c) **Quarterly reports on special urgency decisions**

The Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (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.

18) Record of Decisions of the Executive

a) After any meeting of the Executive or any of its committees, whether held in public or private, the Director of Corporate and Legal Services will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

b) An Executive and Portfolio Holder decision list will also be published and circulated each week, detailing every decision made by the Executive and Portfolio Holder for that particular week, including a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19) Meetings of the Executive Relating to Matters which are not Key Decisions

All meetings of the Executive will be public with press and public excluded only where confidential or exempt information would otherwise be disclosed.

20) Executive Decisions by Individuals

a) **Reports intended to be taken into account**

Where an executive decision maker receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

b) **Record of individual decision**

21) As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive he/she will prepare, or instruct the Director of Corporate and Legal Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8, concerning access to minutes and papers after a meeting, will also apply to the making of decisions by individual Executive members. This does not require the disclosure of exempt or confidential information.**Scrutiny Committees Access to Documents**

a) **Rights to copies**

Subject to Rule 21 b) below, a scrutiny committee (including any sub-committee) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

i) any business transacted at a public or private meeting of the Executive or its committees; or

ii) any decision taken by an individual member of the executive.

b) **Limit on rights**

An overview and scrutiny committee will not be entitled to:

i) any document that is in draft form; or

ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinize.

22) Additional Rights of Access for Members

a) **Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted unless it contains information falling within paragraphs 1, 2, 4, 5, 7A, 7B or 7C of the categories of exempt information and the councillor in question has no bona fide “need to know”;

b) **Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive which relates to any key decision unless it contains the advice of a political adviser.

c) **Nature of rights**

These rights of a member are additional to any other right he/she may have.

C Executive Procedure Rules

1) Procedures General

a) Who May Make Executive Decisions

The Leader may provide for executive functions to be discharged by:

i) the executive as a whole

ii) a committee of the executive

iii) an individual member of the executive

iv) an officer

v) joint arrangements; or

vi) another local authority.

b) Delegation by the Leader

At the annual meeting of the Council, if there is to be a change from the previous municipal year, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the 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 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 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; and
- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

c) Sub-Delegation of Executive Function

i) Where the Executive or a Member is responsible for an executive function, he/she may delegate further to joint arrangements or an officer.

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

iii) Even where executive functions have been delegated, that does not prevent the discharge of the delegated functions by the person or body who made the delegation.

d) **The Council's Scheme of Delegation of Executive Functions**

i) Subject to ii) below, the Council's scheme of delegation of executive functions will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

ii) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Director of Corporate and Legal Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Director of Corporate and Legal Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

iii) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when it is served on the Chairman.

e) **Dealing with Conflicts of Interest and Other Bars to Action - Deputies and Substitutes**

i) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

ii) If every member of the Executive has a conflict of interest this should be dealt with as set out in Article 9 of this Constitution, ie by dispensation sought from Standards Committee.

iii) If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and a conflict of interest arises, 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 in Part 5 of this Constitution.

The procedures for deputisation or substitution due to a conflict of interest or other reason are:

i) Where in the Procedure Rules, Executive Procedure Rules, Accounting and Audit Rules, Procurement Rules or any other part of the constitution, the Leader of the Council is required to take any

action or make any decision and the Leader is unable to do so by reason of:

(1) absence from the District for any reason;

(2) ill health;

(3) the requirement to make a declaration of interest by reason of the Members' Code of Conduct at Part 5 of this constitution;

(4) personal or other reasons which preclude the Member concerned from being able to undertake Council business

then a Deputy Leader of the Council shall take any such actions or make any decisions required in the place of the Leader of the Council whether for one item of business (a substitution) or for a period of time (a deputisation).

ii) Where a Deputy Leader of the Council or any other Executive Member is required by the said Rules or any other part of this Constitution, to take any action or make any decision and is unable to do so by reason of:

(1) absence from the District for any reason;

(2) ill health;

(3) the requirement to make a declaration of interest by reason of the Members' Code of Conduct at Part 5 of this constitution;

(4) personal or other reasons which preclude the Member concerned from being able to undertake Council business

then that Executive Member shall notify the Leader of the Council who shall immediately appoint another Executive Member to carry out the duties of the affected one until their disability from acting has ceased, whether that should be for one item of business (a substitution) or for a period of time (a deputisation).

iii) Where a Member, other than the Leader of the Council, is to act as a substitute or where a deputy is to be appointed under this rule, then the Leader of the Council shall notify the Director of Corporate and Legal Services of that substitution or deputisation. The Director of Corporate and Legal Services shall make and keep a record of each such notification and advise the relevant Chief Officer of the substitution or deputisation. In the event of a deputy being appointed for a Executive Member, the Proper Officer will inform the Council in writing of the name of the deputy and the period of the deputisation.

iv) In relation to conflicts of interest these rules apply only in circumstances where the bar on action is absolute under the Council's Code of Conduct for Members in Part 5 of this constitution.

f) **Executive Meetings**

The Executive will meet at least 12 times per year at times to be agreed by the Leader. The Executive will meet at the Council's principal office or another location to be agreed by the Leader.

g) **Quorum**

The quorum for a meeting of the Executive, or its committees shall be not less than three members.

h) **How Decisions are to be taken by the Executive**

i) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

ii) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

iii) Decisions of the executive will be made in accordance with the Executive Protocol set out in Rule 3 below.

2) Form and Content of the Meeting

a) **Chair** The Leader will preside at any meeting of the Executive or its committees at which he/she is present, and in the Leader's absence, a Deputy Leader will do so.

In the absence of the Leader and a Deputy Leader the Executive will appoint, from amongst its members, a person to preside at the meeting.

The person presiding at the meeting may exercise the powers and duties of the Leader where these powers and duties relate to the Chairmanship of the Executive.

b) **Access** All meetings will be public meetings unless the press and the public are excluded under the Access to Information Rules in Part 4 of the Constitution.

c) **Agenda** At each meeting of the Executive the following business will be conducted:

i) consideration of the minutes of the last meeting;

ii) declarations of interest, if any;

iii) matters referred to the Executive (whether by a scrutiny committee or by the Council) for reconsideration in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

iv) consideration of reports from a scrutiny committee; and

v) 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 Procedure Rules set out in Part 4 of this Constitution.

d) **Putting Items on the Executive Agenda**

i) Subject to the ensuing paragraphs the Leader will decide upon the agenda for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter whether or not authority has been delegated to the executive. The Director of Corporate and Legal Services will comply with the Leader's requests in this respect.

ii) The Director of Corporate and Legal Services will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant scrutiny committee or the full Council have resolved that an item be considered by the Executive. The Director of Corporate and Legal Services will notify the Chair of the relevant scrutiny committee of the date of the meeting which will consider the reference from the Council or the committee and the Chair will be entitled to attend the meeting and speak to the item.

iii) Any member of the Council may ask the Leader to put an item on the agenda of the Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting. The notice of the meeting will give the name of the Member who asked for the item to be considered. The Member will be invited to attend the meeting, whether or not it is a public meeting.

iv) The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of a Executive meeting and may require the Director of Corporate and Legal Services to call such a meeting in pursuance of their statutory duties.

v) In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the Executive needs to be called to consider a matter which requires a decision, they may jointly include an item on the agenda of a Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

e) **Consultation**

i) All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of

consultation required will be appropriate to the nature of the matter under consideration.

ii) The executive may consult any committee of the Council upon any matter within the functions of the executive before exercising its decision making powers. This right is exercisable regardless of whether a scrutiny panel has asked to be consulted or has investigated a particular matter.

3) Questions by the Public

a) **General**

A member of the public may ask a question including one of the Leader or a member of the executive at any meeting of the Executive

b) **Order of questions**

Questions will be asked in the order in which notice of them was received, except that the Leader may group together similar questions.

c) **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Corporate and Legal Services no later than midday 1 clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting. Each question must give the name and address of the questioner.

d) **Number of questions**

At any one meeting no person may submit more than 1 question and no more than 2 such questions may be asked on behalf of one organisation.

e) **Scope of questions**

The Director of Corporate and Legal Services may reject a question if it:

- is not about a matter for which the local authority has a responsibility or does not affect the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Executive in the past twelve months; or
- requires the disclosure of confidential or exempt information.

f) **Record of questions**

The Director of Corporate and Legal Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put if applicable. Rejected questions will include reasons for rejection.

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

g) **Asking the question at the meeting**

The Leader 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, he/she may ask the Chairman or the Director of Corporate and Legal Services to put the question on his/her behalf. The Leader may ask the question on the questioner's behalf or indicate that a written reply will be given.

h) **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Leader may reject a supplementary question on any of the grounds in Rule 10e) above.

i) **Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

j) **Reference of question to a committee**

Any member may move that a matter raised by a question be referred to a meeting of the Council or an appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

The Leader will invite a Member to respond to the question, if appropriate. Ordinarily the Leader will respond or invite the Member of the Executive with responsibility for the issue concerned to respond to the question.

4) Public/Member Participation at Meetings

a) Any person, including a Member of the Council, who attends a meeting of the Executive may be invited by the Leader to make representations, answer questions or give evidence in relation to any matter for which the Council has responsibility or which falls within the terms of reference of the Executive.

b) Any person who wishes to make representations, answer questions or give evidence to any meeting of the Executive should request to do so in writing to the Director of Corporate and Legal Services by no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting.

c) Any person who wishes to ask a question may do so in accordance with paragraphs 3 or 5 as applicable.

d) The request should set out the nature of any representations or evidence that the member of the public or Member of the Council wishes to raise

before the meeting. The Director of Corporate and Legal Services will notify the Leader of the receipt of the request and of its nature. The Leader will decide whether or not to permit the member of the public to make representations give evidence or answer questions and the Director of Corporate and Legal Services will notify the individual concerned of the Leader's decision. The Leader's decision shall be at his sole discretion. Ordinarily the Leader can be expected to agree to the request. The Leader may refuse a request if the subject matter is considered to be irrelevant, vexatious, frivolous, repetitious, defamatory or is otherwise inappropriate. The Leader may limit the time during which the representations may be made or the evidence given.

e) Where the Member has a prejudicial interest in the matter, he/she must withdraw from the meeting immediately after speaking, in accordance with the Members' Code of Conduct.

5) Questions by Members

a) **Questions on Reports**

A member of the Council may ask the Leader or the Member of the Executive or the Chairman of a committee any question without notice upon an item of the report of the executive or that committee when the item is being received or is under consideration by the Council.

b) **Questions on Notice at full Council**

Subject to Rule 12c) below, a member of the Council may ask the Leader, the Member of the Executive or the Chairman of any committee a question on any matter in relation to which the Council has powers or duties or which affects the District of Eden.

c) **Notice of Questions**

A member may only ask a question under Rule 12b) if either;

- he/she has given notice by delivering the question in writing or by electronic mail to the DCLS no later than midday 1 clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting; or
- the question relates to urgent matters, he/she has the consent of the Leader or member of the Executive or Chairman to whom the question is to be put and the content of the question is given to the Director of Corporate and Legal Services prior to the meeting.

d) **Response**

An answer may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

e) **Supplementary question**

A member asking a question under Rule 12b) may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

6) Minutes

a) **Signing the minutes**

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

b) **Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Leader put them.

7) Record of Attendance

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

8) Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

9) Members' Conduct

a) **Smoking at Meetings**

There shall be no smoking at meetings of the Executive.

b) **Leader standing**

When the Leader stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

c) **Member not to be heard further**

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

d) **Member to leave the meeting**

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

e) **General disturbance**

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

10) Disturbance by Public

a) **Removal of member of the public**

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he/she continues to interrupt, the Leader will order the removal of that person from the meeting room.

b) **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Leader may call for that part to be cleared.

11) Executive Powers

a) **Extent of Executive Powers**

i) Subject to vii) below no executive decision whether by the Executive Member individually or by the Executive may be taken unless it falls within the policy framework and budget set by Council.

ii) The Executive does not have decision making powers in relation to any matter which by law or by resolution of the Council has been retained by the Council or falls wholly within the decision making powers of the Council or of any Committee of the Council or within the General Scheme of Delegation to Officers of functions of the Council.

iii) Executive Members shall act within the Protocol for the Operation of Executive forming part of this Rule.

iv) Subject to other instructions from the Leader of the Council, Executive Members are fully empowered to take decisions relating to issues with a financial value below £50,000, individually provided the decision falls wholly or mainly within the parameters of their portfolio. A Executive Member must liaise with any Executive Member whose portfolio is also partially affected by such a decision.

v) The Executive has granted delegated powers to the Officers in the circumstances set out in the Scheme of Delegation to Officers in relation to Executive Functions in part 3 of this Constitution. In

addition, individual Executive Members may delegate power to an Officer, in particular circumstances, to make a decision.

vi) The executive shall consider whether to consult the relevant scrutiny committee

(1) before recommending a change in the Council policy framework;

(2) to identify whether existing policies are effective in achieving the objectives set for them by the Council;

(3) on any aspect of policy development within the remit of the committee;

(4) on any other issue within the remit of the committee on which the executive needs guidance, advice or support whether on policy formulation or otherwise.

vii) Virement and Supplementary Estimates

The procedure for Virements and Supplementary Estimates is as laid out in the Accounting and Audit Rules.

b) **Protocol for the Operation of the Executive**

i) **Justification**

Generally individual Executive Members have full executive powers to act. This Executive protocol has been devised to delimit the extent of Executive Member powers.

An executive decision, made by a Executive member within the terms of this protocol constitutes a final decision authorising officers to act once it has been validated.

ii) **Shared Responsibility**

The Executive will make collective decisions when meeting in full Executive. Executive Members will share responsibility for individual decisions of all other members of Executive. To secure shared responsibility all members of Executive will receive all agenda and reports for each others' decision making meetings.

Collective responsibility will apply. This requires that any Executive Member who wishes to express reservations or disassociate himself/herself from a decision made by the executive is expected to tender his/her resignation to the Leader immediately.

iii) **Collective Decisions**

The following issues require a collective decision:

(1) those reserved by the Executive for collective decisions at the beginning of each municipal year;

(2) those where the Leader (or Deputy Leader in absence) instructs the individual Executive Member to bring them to Executive whether on the Leader's or a Deputy Leader's own initiative or whether following representations from another Executive Member;

(3) those which clearly (and significantly) affect two or more portfolios;

(4) those above the levels of expenditure agreed by Council in the executive arrangements for individual decisions. The Executive will decide whether to make the decision or to refer the matter back to the relevant Executive Member for decision following discussion in the Executive.

iv) **Executive Support**

The Executive Member should usually take individual decisions but there may be occasions when the Member may feel the need to put an item on the Executive agenda in order to take a view from colleagues. The agenda should identify such issues namely:

(1) those instigated by the individual Member, where that Member seeks the Executive's view; and

(2) where there is a disagreement between the executive Member and the relevant Chief Officer

v) **Making and Recording of Executive Decisions**

No Member may exercise powers delegated to him/her to make a decision on any matter unless he/she has first considered a written report containing:

(1) technical advice from the relevant Chief Officer

(2) legal advice from the Solicitor to the Council or an assurance from the Solicitor that no legal issue is involved

(3) financial advice from the Director of Finance or an assurance from the Director that no financial issue is involved.

(4) advice from the Head of Paid Service if any member of staff is or may be affected by the decision to be made.

Decisions should generally be made in the presence of senior officers except in specific circumstances, such as clear urgency, when they must then be recorded by the individual member; and

(1) telephone and video conferencing conversations constitute being "in the presence";

(2) "senior officers" are Chief Officers and others duly authorised by Chief Officers;

(3) Protocols will be established within each department to ensure the relevant Member knows which officers are authorised to make recommendations. Both Members and relevant officers should be aware of who is authorised to make recommendations.

vi) **Recording Decisions**

(1) It shall be the responsibility of every Member, or Officer making executive decisions specifically delegated to him/her, to ensure the accuracy of the record of the decision taken.

(2) No decision which a Member takes shall be valid unless it is formally recorded and notified to the Director of Corporate and Legal Services and complies with legal requirements under the Access to Information Rules and the Protocol on Recording of Decisions. The proper and formal recording of executive decisions is obligatory in all circumstances.

(3) Decisions of Members acting under delegated powers must be notified to the Director of Corporate and Legal Services as soon as possible and in any event within 24 hours of the decision being made and shall be recorded and, if lawful, validated as soon as possible, and in any event within one working day, and published.

(4) The publication of decisions will accord with the Access to Information Rules at Part 4 of this constitution.

c) **Financial Thresholds for Key Decisions**

i) The Council has fixed the following thresholds for deciding whether an Executive decision is a key decision and therefore needs to be shown in the Forward Plan:

(1) expenditure of £50,000

(2) Savings of £50,000

This relates to both Capital and revenue.

Decisions in relation to emergency events are as set out in the Accounting and Audit Rules.

ii) In calculating whether expenditure is at the threshold level:

(1) a decision which commits expenditure for a specific period will be aggregated to ascertain the expenditure level. Where expenditure is recurring it shall be evaluated as five times the annual value;

(2) expenditure may not be artificially disaggregated so that it appears to be below the threshold;

(3) where expenditure by the Council is pooled with expenditure of other agencies the aggregate figure is not to be used unless the funds from partner agencies will first be paid over to the Council and may therefore properly count as expenditure of the executive;

(4) where a series of decisions is being taken on a major capital project ancillary decisions do not need to be considered key decisions unless the decision to progress the project cannot be made until an ancillary decision has been made and acted upon. This does not include applications for planning permission but does include, for example, expenditure related to applications for grant funding to support projects which would not otherwise progress.

iii) Savings are planned reductions in an agreed capital or revenue budget not under-spends against a budget. Savings which will accumulate over time will not be aggregated to ascertain the level of saving. The saving in the first whole financial year alone is to be used.

iv) Income is not a saving and is to be disregarded for this purpose, but may involve making a key decision under 3(d) below.

d) **Other Thresholds for Key Decisions**

The Council has decided that in determining whether an executive decision may be a key decision regard will be had to the effect on communities living or working in more than one ward of the District. If the effect might or will be significant on communities living or working in more than one ward, then it is to be treated as a key decision.

e) **Reports of Statutory Officers**

i) Where the Monitoring Officer or Chief Finance Officer intervene in an executive action under their statutory powers (eg because the proposal is considered to be unlawful) then all action to which the report relates must be suspended until the report has been considered by the Executive.

ii) If the relevant Scrutiny panel decides, having seen the report of the Monitoring Officer or Chief Finance Officer that it wishes to hold an inquiry prior to the consideration of the report by the Executive, the Executive shall delay consideration of the report until it receives a report of the relevant overview and scrutiny committee which shall be no more than 28 days from the date of issue of the report by the Monitoring Officer or Chief Finance Officer.

iii) After considering the report of the Monitoring Officer or Chief Finance Officer the Executive must report in writing to the Council and the Monitoring Officer or Chief Finance Officer explaining what action, if any, is to be taken in consequence of the report and the reasons for that action or for no action.

D Budget and Policy Framework Procedure Rules

1) The Framework for Executive Decisions

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

The rules set out below apply to the plans and strategies listed in Article 4 and forming the policy framework and to "the budget".

2) Process for Developing the Framework

a) The process by which the budget and policy framework shall be developed is:

b) **Initial Proposals**

i) **General Provisions:** At least three months before any plan/strategy which forms part of the policy framework needs to be adopted, the executive will publish initial proposals. Any representations made to the executive shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where a scrutiny committee has already carried out a review of policy, then the outcome of that review will be reported to the executive and considered in the preparation of initial proposals.

ii) **The Budget:** In the case of the budget, constraints outside the Council's control preclude proposals being issued three months before the budget must be set in February. Accordingly budget proposals will be published for the ensuing financial year and available for scrutiny by the first working day after 14 December. However, the Resources Plan, including the Medium Term Financial Strategy, will be issued in September of each year and will be subject to scrutiny as a plan or strategy under these rules.

iii) **The Local Development Framework:** The General Provisions shall not apply to policies and proposals which form part of the local development framework prepared by other authorities or bodies and where Eden District Council is the consultee. Such policies and proposals will be considered by the executive and its views must be taken into account by the Planning Committee which will respond to the relevant authority or body on behalf of the District Council. A copy of the draft minute of the committee shall be sent to the Leader of the Council within two working days of the committee meeting. In the event that the Leader of the Council believes that the Planning Committee has failed to take proper account of the views of the executive in reaching its decision the conflict resolution procedure set out for plans and strategies in rule 3 below shall apply with appropriate amendments.

c) **Referral to Scrutiny**

i) **General Provisions:** The executive's initial proposals shall stand referred to the relevant scrutiny committee for further advice and consideration. The scrutiny committee will canvass the views of local stakeholders, if it considers it appropriate, having particular regard not to duplicate any consultation carried out by the Executive. The scrutiny committee will report to the Executive on the outcome of its deliberations.

ii) The scrutiny committee shall have five weeks to respond to the proposals of the Executive unless the Executive considers that there are special factors which make this timescale inappropriate. If it does, it will inform the scrutiny committee of the time for response when the proposals are referred to it. A response on the budget will be required by the first working day after 21 January.

iii) **The Local Development Framework:** In the case of the local development framework, initial proposals will automatically stand referred to a meeting of the Planning Committee. The Committee must respond to the proposals within six weeks of the initial reference or such other time limit as may be set.

iv) Where budget proposals or initial proposals on a plan or strategy are referred to a scrutiny panel the relevant executive Member has the right to attend any and all meetings of the committee which consider those proposals, both to be questioned by members of the committee and to contribute to the discussion. Attendance of the executive Member or any Officer will be as of right and not on summons in these circumstances. Executive Members will be expected to attend but may choose not to do so. If their attendance is required the scrutiny committee may issue a summons under the Scrutiny Procedure Rules but the time limits in those rules need not apply.

v) **The Local Development Framework:** Where the plan or strategy forms part of the local development framework the provision of paragraph (c)(i) shall apply with the Executive Member (Environment) and Officers attending the Planning Committee meetings in the place of the scrutiny committee.

vi) Having considered the report of a Scrutiny committees or Planning Committee as appropriate the Executive, if it considers it appropriate, may amend the initial proposals before submitting them to the Council. It will also report on how it has taken into account any recommendations from the Scrutiny committee, or the Planning Committee, in framing the proposals submitted to the Council.

3) Finalising the Plan/Strategy or Budget and Conflict Resolution

a) This rule applies before the Council:

i) amends a draft plan or strategy;

ii) approves any plan or strategy (whether or not in draft form) for the purpose of its submission to the Secretary of State or any Minister of the Crown for approval or approves any part of such a plan or strategy which is required to be so submitted;

iii) adopts a plan or strategy with or without modification;

iv) makes a calculation whether originally or by way of substitute in accordance with Section 32-37 or 43-49 of the Local Government Finance Act 1992 ("the budget estimates").

b) In considering a plan or strategy, the Council shall have before it the Executive's proposals and any report from any relevant Scrutiny committee or Planning Committee as appropriate.

c) Unless the Council accepts the proposals of the Executive without amendment the Council's view on a matter concerning the policy framework will be published by issuing a separate minute of the decision within five clear working days of the Council meeting. The Chairman shall be consulted to confirm the accuracy of the draft minute. A copy of the minute showing the date of the decision will be given to the Leader. The minute will:

i) detail the Council's objections and the reasons for objecting to the proposals or any part;

ii) instruct the Executive to reconsider their proposals in the light of the objections made by the Council;

iii) require the Executive to report back to the Council within 20 working days of the original Council meeting.

d) **Conflict Resolution**

i) The Leader may submit to the Council a revision of the draft plan or strategy together with the Executive's reasons for the amendments made: and/or

ii) If the Executive disagrees with any objections of the Council, the Leader shall give written notice to the Director of Corporate and Legal Services to that effect, which must state the reasons for the disagreement.

iii) The Director of Corporate and Legal Services shall convene a further meeting of the Council to reconsider the plan or strategy within 20 working days of the original Council meeting and place on the agenda the Leader's written response including the details set out in (i) and (ii) above.

iv) At that Council meeting, the view of the Council shall be reconsidered in the light of any revisions to the plan/strategy and any disagreement of the Executive with the Council's objections together with the reasons given for any amendments made by the Executive and the reasons for any disagreement with the Council's

objections. All this information must be taken into account by the Council in reaching their final decision.

v) **At the Council meeting:**

(1) the Council may approve the revised plan/strategy in the form proposed by the Executive; and/or

(2) the Council may change its earlier decision to reflect the views of the Executive and if that resolution is made, even if it does not wholly and completely reflect the views of the Executive, the decision is final and the plan or strategy approved may be implemented immediately; or

(3) the Council may confirm its original decision and that decision is final and the plan or strategy approved may be implemented immediately.

e) **The Budget:** the budget estimates for the following financial year shall be submitted by the Executive to the Council by the second week of February in any year.

i) Any amendments to the budget estimates put forward at the Council meeting which are accepted by the Leader at the time will form part of the Executive's proposed budget in accordance with usual procedural formalities.

ii) If the Council approves any amendments to the Budget which the Leader does not accept, then the budget will be referred back to the Executive before re-submission to Council.

iii) Within two weeks a further Council will be held at which the Executive will present its revised budget.

iv) The Council meeting which receives the Leader's report referred to above must take into account every aspect of the Leader's report in making its decision. Provided that it does so, the Council may:

(1) approve the Leader's report and set the Council's budget for the ensuing financial year which may be on the basis of the original budget estimates or estimates, revised in whole or in part; or

(2) subject to any report which may be made by the Chief Finance and/or Monitoring Officers and to having put its objections in detail to the Leader at the original Council meeting, set the estimates based on the view expressed at the original meeting.

4) Decisions Outside the Budget or Policy Framework

a) Subject to the provisions of rules for virement and supplementary estimates (contained in the Accounting and Audit Rules) and the Executive Procedure Rules executive powers may only be exercised in line with the budget and policy framework. If an executive decision maker wishes to

make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to Rule 5 below.

b) If the executive, wants to make such a decision, it must take advice from the monitoring officer and/or the chief financial officer as to whether the decision it wishes to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget and not in compliance with the Executive Procedure Rules. If the advice of either of those officers is that the decision would be contrary to the existing budget and/or policy framework or the Executive Procedure Rules, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5. (Urgent decisions outside the budget and policy framework) shall apply.

5) Urgent Decisions Outside the Budget or Policy Framework

a) The Leader and relevant Executive Member acting together may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

i) if neither the Leader nor the relevant Executive Member is able to refer the matter to Council because of the utmost urgency with which the matter must be dealt; and

ii) if both the Leader and the relevant Executive Member are available to make the decision themselves; and

iii) if the Chair of the relevant scrutiny committee agrees that the decision is a matter of utmost urgency;

The consent of the Chair of the relevant scrutiny committee to the decision being taken as a matter of utmost urgency must be noted on the record of the decision. In the absence of the Chair or Vice Chair of the relevant scrutiny committee the consent of the Chairman must be obtained.

b) Following the decision, the Leader will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of utmost urgency.

c) A decision to spend beyond the supplementary estimate permitted under the Accounting and Audit Rules is a matter for the Council under all circumstances.

6) Virement and Supplementary Estimates

The rules on virement and supplementary estimates in the exercising of executive or other powers are set out in the Accounting and Audit Rules in this Part of the Constitution.

7) In-Year Changes to Policy Framework

a) The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the executive must be in line with it. No

changes to any policy and strategy which make up the policy framework may be made by the executive except those changes, which are:

i) necessary to ensure compliance with the law, ministerial direction or government guidance;

ii) specifically authorised at any time by Council.

8) Disputing Decisions as Outside the Budget or Policy Framework

a) Where a scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget and outside virement powers under the Accounting and Audit Rules or the Executive Procedure Rules or is otherwise outside the powers of the executive set out in this Constitution; then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

b) The Monitoring Officer and/or Chief Financial Officer shall respond to a request for advice and no further action may be taken in respect of the decision by any Member or Officer until the officers have reported. The only exception occurs when a decision has not been acted on, or has yet to be made and, in advance of a report of the monitoring officer and/or chief financial officer, the Leader is satisfied that the executive would be exceeding its powers, then he/she may so advise the Chair of the relevant scrutiny committee, the monitoring and/or chief financial officer and the executive decision maker concerned and so resolve any dispute. The decision will then be dealt with in accordance with the Constitution.

c) In respect of functions which are the responsibility of the executive, the Monitoring Officer's report and/or Chief Financial Officer's report shall be made to the Executive with a copy to every member of the Council. Any such report must be considered by the Executive as a whole regardless of whether the decision is delegated in order to decide what action to take.

d) If the decision has yet to be made, or has been made but not implemented, then:

i) if on considering a report from the monitoring officer and/or chief financial officer the Executive accepts the report then the dispute will be resolved and the decision dealt with in accordance with the Constitution;

ii) if the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, then, if the Executive wishes the question to be considered by the Council, the matter will be referred to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter;

e) The Council shall meet within seven working days of the request by the Executive. At the meeting it will receive a report of the decision or

proposal, the report of the monitoring officer and/or the chief financial officer and any views of the Executive. The Council may either:

i) amend the council's budget or policy concerned to incorporate the decision or proposal of the Executive and agree to the decision being made with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

ii) accept that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and not amend the existing framework or budget to accommodate it. In this case, the executive must act in accordance with the advice already received from the monitoring officer and/or chief financial officer.

f) The Leader shall prepare a report to the next Council meeting in the event that the report of the Monitoring Officer or Chief Financial Officer concludes that a decision which has been acted on was a departure. The report will explain to the Council how the decision came to be made and implemented and the steps the Leader has taken or is taking to prevent a recurrence.

g) The Executive may respond in writing to or by attendance at the scrutiny committee where the Monitoring Officer/Chief Financial Officer conclude that the decision was not a departure from the policy framework or the budget.

9) Amendments to a Plan or Strategy comprised in the Policy Framework

A plan or strategy which is comprised in the policy framework may be revised, up-dated or amended from time to time to account for any changes in legislation or guidance or any variations which are considered to be necessary. Each plan and strategy will be reviewed periodically and updates, revisions or amendments will be proposed by the executive for consideration and adoption by the Council. For the avoidance of doubt any amendment to an existing and adopted policy or strategy in accordance with this rule will not be subject to the process for developing the policy framework set out in rule 2 unless significant and major variations are proposed.

E Committee Procedure Rules

1) How do the Committees Operate?

Decisions of the committees will be taken by the committee as a whole.

2) Meetings

Meetings will be held at least four times per year at times to be agreed by the Council.

The time and place of meetings will be notified in the summons.

The Director of Corporate and Legal Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.

At least five clear days before a meeting the Director of Corporate and Legal Services will send a summons signed by him or her by post to every member of the committee or leave it at their usual place of residence.

The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

Meetings will take place in public except in circumstances described in the Access to Information Procedure Rules as set out in Part 4 of this Constitution.

3) Chairman

The Chairman will preside at meetings of the committee and in his/her absence the Vice-Chairman will preside. In the absence of the Chairman and Vice-Chairman the committee will appoint, from amongst the permanent members of the committee, a person to preside at the meeting.

The person presiding at the meeting may exercise the powers and duties of the Chairman where these powers and duties relate to the Chairmanship of the committee.

4) Quorum and Attendance

The quorum for committees will be three.

A substitute of a committee will be only those specifically appointed as standing deputies and substitutes by the Council.

A substitute will have the same powers and duties as a member of the committee during the meeting at which he or she is substitute.

A member may attend a meeting of a committee on which he/she does not sit, whether or not he/she attends as a representative of another committee or where business affecting that member's ward is to be discussed.

5) Who can put items on the Agenda of a Committee

The Chairman of a committee may put on the agenda of the relevant committee any matter which he/she wishes, provided that it is relevant to the business of that committee.

Any member of a Committee may request that an item is placed on the agenda for a meeting. The item will be placed on the agenda for a meeting provided the Chairman of the Committee agrees to the item's inclusion. In the event that the Chairman does not agree to the item being placed upon the agenda any three members of the relevant committee may require that an item be placed upon the agenda. Any such requirement must be made either at the meeting or to the Director of Corporate and Legal Services in writing and signed by the three Members.

A Member of the Scrutiny Committee may request that an item be placed on the agenda for a meeting.

Any chief officer may place an item on the agenda that he/she considers the committee needs to consider or take a decision on.

The Chief Executive, Monitoring Officer and Chief Finance Officer may require that a meeting is convened in pursuance of their statutory duties.

The Director of Corporate and Legal Services will ensure that an item is placed on the agenda of the next available meeting of the committee if Scrutiny Committee or full Council has resolved that an item must be considered by the Committee.

6) Duration of the Meeting

Unless the majority of members present, vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Any remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

7) Public and Member Participation

Rules 10, 11 and 12 of the Council Procedure Rules will apply to committees and sub-committees of the Council.

8) Motions on Notice

a) **Notice**

Except for motions which can be moved without notice under the provisions set out in the Council Procedure Rules above, written notice of every motion, signed by the member giving the notice, must be delivered to the Director of Corporate and Legal Services not later than 5 clear working days (that is not counting the day of the meeting or the day of delivery) before the date of the meeting. The written notice of the motion will be entered in a book open to public inspection.

b) **Motion set out in agenda**

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

c) **Scope**

Motions must be about matters for which the Committee concerned has a responsibility and which affect the District of Eden.

d) **Exclusion of Notices of Motion Out of Order**

The Chairman, on the advice of the Director of Corporate and Legal Services, may exclude from the summons any notice of motion which may be out of order, or he/she may make such corrections therein as will bring it into due form with the approval of the mover(s).

In accordance with Rule 15 of the Council Procedure Rules, if a motion seeks to vary or reverse a decision made by any committee of the Council or the Council within the previous twelve months it will not be included in the summons.

e) **Motions Not Moved**

If a motion set out in the summons is not moved by the member(s) who gave notice, it shall be treated as withdrawn and shall not be moved without fresh notice.

9) Decisions

A committee will decide those matters delegated to it by Council. It will make decisions in accordance with any budget and policy framework set by full Council. Decisions will be taken at a meeting convened in accordance with the Access to Information Procedure Rules.

10) Recorded vote

Any member present at the meeting of a committee can demand that the names for and against the motion or amendment or abstaining from voting will be taken down in writing by the Director of Corporate and Legal Services and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

11) Council Procedure Rules

The Rules 10, 11,12, 13, 14, 15, 16 17 (except 17e) see Rule 10 above) 18a), 18c), 19, 20, 21a), 21d), 21e), 21f), 22 and 25d) as set out in the Council Procedure Rules above also apply to committees.

12) Questions by the Public

A member of the public may ask a question at a meeting of any Committee in accordance with this rule.

The question must be about a matter which falls within the Committee's terms of reference and be a matter about which the Council has a responsibility or which affects the District of Eden.

The member of the public should give a least one clear day's notice in writing or by electronic mail of the question to the Director of Corporate and Legal Services. The notice should be given no later than midday on the day prior to the meeting.

Each question must identify the name and address of the questioner.

No person may submit more than one question at a meeting and no more than two questions may be asked by or on behalf of the same organisation.

13) Scope of questions

The Director of Corporate and Legal Services may reject a question if it:

- is not about a matter for which the Committee has a responsibility or does not affect the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Committee in the past twelve months; or
- requires the disclosure of confidential or exempt information.

14) Record of questions

The Director of Corporate and Legal Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put if applicable. Rejected questions will include reasons for rejection.

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

15) Asking the question at the meeting

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, he/she may ask the Chairman or the Director of Corporate and Legal Services to put the question on his/her behalf. The Chairman may ask the question on the questioner's behalf or indicate that a written reply will be given.

16) Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 13 above.

17) Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

Ordinarily the Chairman of the Committee will respond to the question.

F Scrutiny Procedure Rules

1) What will be the number and arrangements for overview and scrutiny committees?

a) The Council will have the scrutiny committees with the terms of reference and functions set out in Article 6 and will appoint to them as it considers appropriate from time to time. The Scrutiny committees may appoint sub-committees which will be appointed for fixed periods.

b) Scrutiny Co-ordinating Board

The Council will have one scrutiny co-ordinating board comprising of nine Members. The terms of reference of the Scrutiny Co-ordinating Board will be:

i) to approve an annual overview and scrutiny work programme, including the programme of any sub-committees it appoints, to ensure that there is efficient use of the committees' and sub-committees' time, and that the potential for duplication of effort is minimised;

ii) where matters fall within the remit of more than one scrutiny committee or sub-committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between scrutiny committees;

iii) to receive requests from the executive and/or the full Council for reports from scrutiny committees and to allocate them if appropriate to one or more scrutiny committees;

iv) to put in place and maintain a system to ensure that referrals from scrutiny to the executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;

v) at the request of the executive, to make decisions about the priority of referrals made in the event of reports to the executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.

vi) to consider matters relating to joint Scrutiny committees.

2) Membership of scrutiny committees

All councillors except members of the executive may be members of a scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved. Each committee will be politically balanced. The Scrutiny Co-ordinating Board will be politically balanced.

3) Co-opted Advisors

Each scrutiny committee shall be entitled to recommend to Council the appointment of up to two people as non-voting advisors.

An Advisor may be appointed as a member for specified tasks or reviews provided that:

- the number of co-opted members shall not exceed two per committee;
- the committee shall determine the term of office of co-opted members which shall not be beyond the next annual meeting;
- co-optees appointed under this rule shall be non voting.

4) Meetings of the scrutiny committees

There shall be at least four meetings of each scrutiny committee in each year. In addition, extraordinary meetings of the scrutiny committee may be called from time to time as and when appropriate. There shall be at least one ordinary meeting of the Scrutiny Co-ordinating Board in each quarter. In addition, extraordinary meetings of the Scrutiny Co-ordinating Board may be called from time to time as and when appropriate. A committee meeting may be requisitioned by the chair of the relevant scrutiny committee, or by the proper officer if he/she considers it necessary or appropriate, or by not less than three members of the relevant committee. A requisition shall specify the matter or matters to be considered within the Terms of Reference of the relevant scrutiny committee. Members requisitioning a meeting shall provide the Director of Corporate and Legal Services with the reasons for their request in writing.

5) Quorum

The quorum for a scrutiny committee shall be as set out for committees in the Committee Procedure Rules in Part 4 of this Constitution.

6) Who chairs scrutiny committee meetings?

Chairs of overview and scrutiny committees/sub-committees will be drawn from among the councillors sitting on the committee/sub-committee, and will be appointed by Council.

7) Work programme

The scrutiny committees/sub-committees will, subject to the Scrutiny Co-ordinating Board and any requests from the Council, be responsible for setting their own work programmes and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

8) Agenda items

Any member of a scrutiny committee or sub-committee shall be entitled to give notice to the Director of Corporate and Legal Services that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of that committee or sub-committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

Any five members of the Council who are not members of a particular scrutiny committee may give written notice to the proper officer that they wish an item to

be included on the agenda of a relevant scrutiny committee. If the Director of Corporate and Legal Services receives such a notification, then he/she will include the item on the first available agenda of the relevant scrutiny committee for consideration.

The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and if they consider it appropriate the executive to review particular areas of Council activity. Where they do so, the scrutiny committees shall report their findings and any recommendations back to the executive and/or Council. The Council and/or the executive shall consider the report of a scrutiny committee within one month of receiving it.

9) Policy review and development

a) The role of the scrutiny committees in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules.

b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committees or sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.

c) Scrutiny committees may hold enquiries and investigate the options for policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses reasonable expenses for doing so.

10) Reports from scrutiny committees

a) Once they have formed recommendations on proposals for development, the scrutiny committees will prepare a formal report and submit it to the Director of Corporate and Legal Services for consideration by the executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget and policy framework).

b) If a scrutiny committee cannot agree on one single final report to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.

c) The Council or executive shall consider the report of the scrutiny committee within six and four weeks respectively of its being submitted to the proper officer.

11) Making sure that scrutiny reports are considered by the executive

a) Once a scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the Director of Corporate and Legal Services who will allocate it to either or both the executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework.

i) If the Director of Corporate and Legal Services refers the matter to Council, he/she will also serve a copy on the leader with notice that the matter is to be referred to Council. The executive will have 4 weeks in which to respond to the scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the executive to the scrutiny proposals.

ii) If the Director of Corporate and Legal Services refers the matter to the Executive it shall be included on the agenda of the next available meeting of the Executive unless the matter which is the subject of the report is scheduled to be considered by the Executive within a period of 4 weeks from the date the report was adopted by the scrutiny committee. In such cases, the report of the scrutiny committee shall be considered by the Executive when that matter is scheduled to be considered by the Executive. If for any reason the Executive does not consider the scrutiny report within 4 weeks then the matter will be referred to Council for review, and the Director of Corporate and Legal Services will call a Council meeting to consider the report and make a recommendation to the Executive.

b) Where a scrutiny committee or sub-committee prepares a report for consideration by the Executive in relation to a matter where the Leader has delegated decision making power to another individual member of the Executive, then the scrutiny committee will submit a copy of its report to that individual member for consideration. At the time of doing so, the scrutiny committee shall serve a copy on the Director of Corporate and Legal Services and the Leader. If the member with delegated decision making power does not accept the recommendations of the scrutiny committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the scrutiny committee. The Executive member to whom the decision making power has been delegated will respond to the scrutiny committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Director of Corporate and Legal Services and he/she will attend a future meeting at which the response is considered.

c) Where a scrutiny committee's report is to be considered by the Executive then the chair of the relevant scrutiny committee shall be entitled to be present at the meeting to discuss the report. If the report is to be considered by an individual Executive member or officer then he/she will arrange to meet the chair of the committee to discuss the report.

12) Key Decisions Omitted from the Forward Plan

Where a scrutiny committee comes to the view that a decision was not but should have been treated as a key decision, it may require a report from the Leader to the next meeting of the Council.

The report must include details of the decision and the reasons for the decision; the decision making body by which or person by whom the decision was made and the reasons why the decision was considered not to be a key decision.

13) Rights of scrutiny committee members to documents

a) In addition to their rights as councillors, members of scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

b) Nothing in this paragraph prevents more detailed liaison between the executive and scrutiny committees as appropriate depending on the particular matter under consideration.

c) Scrutiny members will have access to the executive's forward plan including the timetable for decisions and intentions for consultation.

14) Members and officers giving account

a) Any scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require, any member of the Executive, the head of paid service and/or any senior officer as defined below to attend before it to explain in relation to matters within their remit:

i) any particular decision or series of decisions;

ii) the extent to which the actions taken implement Council policy; and/or

iii) their performance.

and it is the duty of those persons to attend if so required.

b) For the purposes of paragraph 14(a) the expression "senior officer" means any officer who is employed by the Council at not below Principal Officer level and shall not normally be below the level of Head of Service unless he/she has a particular expertise or knowledge which is of assistance to the scrutiny committee or sub-committee.

c) Officer attendance by request at a scrutiny committee will normally be by officers at chief officer level unless there are special reasons to require the attendance of more junior staff. Any such special reasons must be set out in writing in the request for attendance of that officer. A chief or executive officer shall always be entitled to attend with the officer requested. It is within the discretion of a chief officer to send a more senior officer along instead of a named officer provided that is justified to the committee.

d) Where any member or officer is required to attend a scrutiny committee under this provision, the chair of that committee will inform the Director of Corporate and Legal Services. The Director of Corporate and Legal Services shall inform the member or officer in writing giving at least 5 clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is 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 documentation.

e) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

15) Attendance by others

A scrutiny committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may wish, for example, to hear from residents, stakeholders and members and officers in other parts of the public sector.

16) Call-in

a) Call-ins should only be used in exceptional circumstances. In order to ensure that Call-in is not abused and does not cause unreasonable delay, certain limitations are placed on its use. These are:

i) a Call-in may only be requested if the proposed decision is considered to be contrary to the Council's budget or the policy framework or Article 12 of the Constitution;

ii) decision making bodies can only be asked to reconsider a decision once

iii) any three members of the Council can request and sign a call-in;

iv) the request for a call-in must state the reasons why it is considered a proposed decision should be called-in;

v) a decision of the Licensing Committee or the Planning Committee on an individual application may not be the subject of a call in. However, the Chairman or any other member of the Licensing Committee or the Planning Committee may be invited to attend a meeting of the Scrutiny Committee to explain the reasons for a decision on any particular application and why, in particular, a decision was made which appears to be contrary to established policy and, in addition, any senior officer may also be called to attend a meeting of the Scrutiny Committee to explain any recommendation in a report in relation to a particular application. The call-in procedure and hearing procedure will apply to any such invitation to attend to explain a decision as if the matter was being

called in. In such a circumstance the Scrutiny Committee may express its concerns about a decision to the Licensing or Planning Committee, refer its concerns to Council or make such recommendations for consideration by a Committee, the Council or an officer as may be appropriate;

vi) the call-in procedure will not apply where a proposed decision is determined to be urgent in accordance with c) below;

vii) decisions made by Officers under the Schemes of Delegation in Part 3 of this Constitution are not subject to call in procedure. Decisions being made by Officers under a specific delegation may be subject to the call-in procedure.

b) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive:

i) the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. Chairs of all scrutiny committees will be sent copies of the records of all such decisions electronically within the same timescale, by the person responsible for publishing the decision

ii) that notice will bear the date on which it is published and will specify that the decision may be implemented, on the expiry of 5 clear working days after the publication of the decision, unless a call-in is made;

iii) during that period, the Director of Corporate and Legal Services shall call-in a decision for scrutiny by a committee if so requested by any three members of the committee, and shall then notify the decision-maker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within 5 clear working days of the decision to call-in;

iv) if, having considered the decision, the scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. A decision may be referred to full Council only if it is considered to be contrary to the budget or the policy framework. If referred to the decision maker he/she shall reconsider it within a further 5 clear working days, amending the decision or not, before adopting a final decision;

v) if following an objection to the decision, the scrutiny committee does not meet in the period set out in paragraph b), iii) above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny committee meeting, or the expiry of that further 5 clear working day period, whichever is the earlier;

vi) if the matter was referred to full Council and the Council does not object to the proposed decision, then no further action is necessary and the decision will be effective in accordance with the provisions below. However, if the Council does object, the Council may refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision or make the decision itself provided that this is in accordance with the policy framework and budget. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council request;

vii) if the Council does not meet, 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 Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

c) **Call-In and Urgency**

i) The call-in procedure set out above shall not apply where the decision being taken is urgent. 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's interests. The record of the decision, and notice by which it is made public will state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The chairman of the appropriate scrutiny Panel must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the chairman, the vice-chairman's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the appropriate Panel, together with the reasons for urgency.

d) **Procedure for a call-in hearing**

i) The hearing of any call-in will be conducted in accordance with the following procedure:

(1) The Chairman shall identify the witnesses and outline the resolutions the Committee must choose between after deliberation.

(2) One of the Members shall present the case for calling in the matter.

(3) Each of the witnesses may, if they wish, make an oral statement to the Committee lasting no more than 5 minutes without the consent of the Chairman.

ii) The Chairman shall first invite the Members who submitted the call-in to ask any questions of the witnesses.

iii) The Chairman shall invite any other Member of the Committee to ask the witnesses or any of the Members any question.

iv) All witnesses shall withdraw from the meeting room when there are no further questions.

v) The Council's Solicitor shall summarise the issues and arguments raised and address any legal points.

vi) The Committee shall deliberate the call-in request.

vii) The Committee shall resolve either:

- that the decision is in its view contrary to the policy framework or budget and to refer the decision to Council; or
- that it has 'concerns' and to refer the matter back to the decision making body for re-consideration. The Committee must specify its concerns; or
- to take 'no further action'.

viii) The witness shall be recalled to the meeting to be informed of the resolution.

e) **The party whip**

"The Party Whip" means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.

When considering any matter in respect of which a member of a scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17) Procedure at scrutiny committee meetings

a) scrutiny committees and sub-committees shall consider the following business:

i) minutes of the last meeting;

ii) declarations of interest (including party whip declarations);

iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;

iv) responses of the Executive to a report of a scrutiny committee; and

v) the business otherwise set out on the agenda for the meeting.

b) Where the scrutiny committee conducts investigations (eg with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;

ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and

iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis;

iv) when Officers appear before the Committees, questions to them should, so far as possible, be confined to those which should elicit responses of fact and advice or opinion within their professional expertise;

v) officers may be asked to explain the relevant policies, the justification and objectives of those policies as the executive or the Council sees them, the extent to which those objectives may have been achieved, and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

c) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

18) Matters within the remit of more than one scrutiny committee

Where a matter for consideration by a scrutiny committee also falls within the remit of one or more other scrutiny committees, the decision as to which scrutiny committee will consider it will be resolved by the scrutiny co-ordinating Board.

19) Call for Action – Reference to a Scrutiny Committee

Reference of a Matter

Any member of a Scrutiny Committee may refer any matter which is relevant to the functions of the Scrutiny Committee to that Committee. Similarly, a Member of a Sub Committee may refer any matter which is relevant to the functions of the Sub Committee to that Sub Committee.

A Member of the Council may refer any matter to a Scrutiny Committee of which he is not a Member which:

i) is relevant to the functions of that Committee;

ii) relates to the discharge of any function of the Council;

iii) affects all or part of the ward for which that Member is elected or any person who lives or works in that ward and;

iv) is not a matter which is excluded by virtue of any regulations. A Member who wishes to refer a matter to any Scrutiny Committee or Sub Committee may request that that matter is included upon the agenda for a meeting of that Committee or Sub Committee. The inclusion of the item on the agenda will be subject to the provisions relating to access to information so that, unless the matter is urgent, the referral of the matter must be received by the Director of Corporate and Legal Services in sufficient time for it to be included upon the agenda for that meeting and dispatched in accordance with the statutory timescales. If a matter is received after the dispatch of the agenda, unless it is an urgent matter which the Chairman of the Committee is willing to consider, the matter will be deferred to the next meeting of that Committee or Sub Committee. In deciding whether or not to refer a matter to a Committee the Member concerned shall have regard to any guidance which is issued upon the subject.

In deciding what action, if any to take in relation to the referral by a Member the Committee or Sub Committee will consider:

a) whether the member concerned may exercise any powers in relation to the matter;

b) any representations which the Member may make as to why it would be appropriate for the Committee to exercise any of its powers;

c) any guidance issued by the Secretary of State.

If the Committee of Sub Committee decides not to exercise any of its powers in relation to the matter it must notify the Member concerned of its decision and the reason for it.

In the event of the Committee or Sub Committee makes a report or recommendations to the Council or the Executive the Member concerned will be provided with a copy of that report or the recommendations.

If the Committee of Sub Committee decides to make a report or recommendations to the Council or the Executive the Committee may decide to publish that report or recommendation. The Committee shall have regard to the cost and implications of publishing the report or the recommendations.

In making a report or a recommendations to the Council or the Executive the Committee must in writing require the Council or the Executive:

a) to consider the report or recommendations;

b) to respond to the Committee indicating what action the Council or the Executive proposes to take;

c) to publish the Council's or the Executive's response if the Committee has published its report or recommendations;

d) to provide the Member with a copy of the response.

The Committee shall require the Authority or the Executive to respond to it within two months beginning with the date upon which the report or recommendation is received by the Council or the Executive.

Any report or recommendation which the Committee wishes to refer to the Council or Executive shall be presented to the Director of Corporate and Legal Services who will ensure that the report or the recommendation is considered by the Council or the Executive at its next meeting in accordance with the requirement for the matter to be considered within a period of two months.

The Council will adhere to and comply with the procedure which has been adopted by all of the Cumbrian Local Authorities in relation to the Councillor Call for Action in connection with the referral of a matter to the Executive or the Council. This procedure is contained in Part 5 of the Constitution.

20) Crime and Disorder Matters

Any Member of the Council who is not a Member of the Housing and Community Panel (Crime and Disorder Committee) may refer a local Crime and Disorder matter to that panel.

A local Crime and Disorder matter means a matter which concerns:

a) Crime and Distorder including anti-social behaviour or behaviour which adversely affects the local environment or;

b) the misuse of drugs, alcohol or other substances which affect all or part of the ward for which the Member is elected or any person who lives or works in that ward.

A Member who wishes to refer a matter to the Crime and Disorder Committee may request that that matter is included on the agenda for and is discussed at a meeting of the Housing and Communities panel. The panel will consider whether or not to make a report or a recommendations to the Local Authority on the matter. If the Committee decides not to make a report or make a recommendation it will notify the Member of this decision and the reaons for it. If the panel makes a report or

recommendations to Council it will provide a copy of that report or recommendations to the Member of the Council who referred the matter in question to the panel and provide a copy of the report and of the recommendations to the responsible authorities and the corporating persons and bodies as it considers appropriate.

The Council upon receipt of the report or recommendation must consider it and respond to the Housing and Communities Panel indicating what action, if any, it proposes to take and have regard to the report or recommendations in exercising its functions.

G Accounting and Audit Rules

1) General

a) These Rules, in conjunction with the Procurement Rules, comply with the requirements for Standing Orders under Section 135 of the Local Government Act 1972.

b) The purpose of the Rules is to ensure that the Council's financial affairs are conducted with openness, probity and accountability. The Director of Finance is responsible to the Council for the proper administration of the financial affairs of the Council, as required by Section 151 of the Local Government Act 1972.

c) In these Rules the following definitions apply:

Chief Officer	One of the following: Chief Executive, Director of Technical Services, Director of Finance, Director of Corporate and Legal Services, or Director of Policy and Performance.
Contract	Any form of contract, agreement, or other arrangement, for the supply of goods, services, or works.
Director of Finance	Includes the Director's deputy, the Financial Services Manager.
Executive Member	A member of the Council's Executive.
Leader	The Leader of the Council, as appointed by full Council.
Management Team	The Chief Executive and other Chief Officers acting corporately.
Services	Includes all services which the Council purchases, or obtains, including advice, specialist consultancy work, agency staff, etc.
Works	Covers all construction and property-related procurement.

d) Each Chief Officer shall consult the Director of Finance with respect to any matter which is liable to affect the approved income or expenditure contained in the annual budget of the Council.

2) Budget

a) The form of capital and revenue estimates shall be determined by the Director of Finance.

b) Estimates of capital and revenue income and expenditure shall be prepared by Chief Officers, in conjunction with the Director of Finance, who shall collate the estimates for consideration by Management Team and the relevant Executive Members and submit them to the Executive. The Executive shall submit a draft budget to the Scrutiny Board on the first working day after 14 December each year. The Scrutiny Co-ordinating Board shall respond by the first working day after 21 January each year. The Executive shall consider the response of the Scrutiny Board and then recommend a budget to the Council in the first week in February each year.

c) Upon approval by the Council of the capital estimates, the Chief Officers concerned, in conjunction with the Director of Finance, shall be authorised:

i) to take steps to enable land required for the purposes of the programme to be acquired in due time; and

ii) to prepare a scheme and estimate, including a financial appraisal, for approval by the appropriate Executive Member.

d) Any proposals which commit future budgets to a level of expenditure greater than that provided for in the current year, shall be reported by the relevant Chief Officer to the appropriate Executive Member and the Executive. The Director of Finance should be consulted on the draft report.

e) Each Chief Officer shall ensure that the authorised budget holders in his or her department monitor the revenue and capital budgets for which they are responsible. The Director of Finance shall ensure that the Financial Management System is up-to-date and that all authorised budget holders are appropriately trained in its use.

f) Where there is, or may be, any material variation (over 10%) in the actual expenditure, or income against the approved estimate, for any service or business unit, it shall be the duty of the Chief Officer concerned to consult with the Director of Finance and to report to the Executive Member as appropriate.

3) Accounting

a) All accounting procedures and records of the Council and its officers shall be determined by the Director of Finance. Such procedures shall have regard to current statutory requirements. Where such procedures and records are maintained in a department other than that of the Director of Finance, the Director of Finance shall, before making any changes, consult the Chief Officer of the department concerned.

b) The duties of providing information regarding sums due to, or from the Council, or of calculating, checking and recording these sums, shall, as far as possible, be separated from the duty of collecting or disbursing them.

4) Virements

a) **Revenue**

i) Virement between expenditure codes within a business unit or service (defined for the purposes of these Rules as a page in the published Budget Book) will not require Member approval. To make a virement, the relevant budget holder should e-mail details of the requested virement to Financial Services, who will fill out and action a virement form. The only exception is that virement of amounts to, or from, salary-related budgets, must be approved by Management Team.

ii) For virement between business unit or services within a portfolio:

- amount less than £5,000 - must be approved by the relevant Chief Officer and notified to the Executive Member
- amount of £5,000 and above - must be approved by the relevant Executive Member and reported to the Executive.

iii) Virement between portfolios, except for Property Maintenance budgets, must be approved by the Executive Member whose budget is being reduced. The virement must also be reported to the Executive Member receiving the transferred budget. If over £10,000, such virements must be approved by the Executive and, if over £20,000, such virements must be approved by Council.

iv) Virement resulting from tender submissions will not require Executive Member approval where such virement:

(1) results from a tender being in excess of budget provision;

(2) does not exceed 10% of the agreed budget for the scheme; and

(3) can be funded from uncommitted schemes within the same portfolio. Any such virement shall be reported to the relevant Executive Member.

v) All requests for virement must be passed to the Financial Services Section, duly certified, as set out above.

vi) Virements should not be artificially disaggregated.

b) **Capital**

The provisions, as set out in 4) a), shall apply to capital, except that the limit in 4) a) ii) is £10,000, rather than £5,000.

5) Supplementary Estimates

a) A supplementary estimate is an addition to the Council's agreed budget. Supplementary estimates can be one-offs, or recurring. In either case, supplementary estimates should only be considered after all other options, such as virements, or savings, have been considered.

b) All supplementary estimates, either revenue or capital, require the approval of the Executive. Referral to Council is not required if the value* of a supplementary estimate is:

less than £5,000, or

less than £50,000 and the total value of all supplementary estimates approved in the financial year is less than £100,000.

**For control purposes, a recurring supplementary estimate is evaluated as five times the annual value.*

c) Once approved by the Executive, or Council, the Financial Services Section will amend the budgets held within the Financial Management System.

6) Advance Accounts

a) The Director of Finance shall provide such advance accounts as he considers appropriate for such officers of the Council as may need them. Advance accounts for petty cash purposes shall be maintained on the imprest system. Arrangements for safe custody of imprest advances shall be subject to the approval of the Director of Finance.

b) No income received on behalf of the Council may be paid into an advance account, but must be banked or paid to the Council as provided elsewhere in these Rules.

c) Payments shall be limited to minor items of expenditure (less than £30) and to such other items as the Director of Finance may approve and shall be supported by receipted vouchers.

d) An officer responsible for an advance account shall, if so requested, give to the Director of Finance a certificate as to the state of his advance account.

e) On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an advance, an officer shall account to the Director of Finance for the amount advanced to him.

7) Audit

a) This section is based on the 2006 Code of Practice for Internal Audit in Local Government, published by the Chartered Institute of Public Finance and Accountancy (CIPFA). This is hereafter referred to as the Code. It also complies with the provisions of the Accounts and Audit Regulations 2006.

b) The Director of Finance will maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. Such proper internal control practices for internal audit are those contained within the Code.

c) Those functions of an audit committee relating to internal audit shall be undertaken by the Accounts and Governance Committee. These responsibilities are:

i) to consider the Strategic Internal Audit Plan report - this shall be submitted each year after consideration by the Council's Management Team. This will consider the adequacy of audit resources;

ii) to consider internal audit reports - summaries of individual audit reports are to be submitted after agreement of the final report with management. This will also detail any recommendations rejected and any failure to implement recommendations from the previous audit;

iii) to consider the annual internal audit report - an annual report on the activities of the Section and the completion of the Audit Plan are to be submitted within three months of the end of each financial year;

iv) to monitor the implementation of agreed audit recommendations - to be reported to each meeting;

v) to consider any other audit and financial investigation reports;

vi) to review annually the Terms of Reference in the Code;

vii) to consider an annual report on the effectiveness of internal audit from the Head of Internal Audit

d) Internal audit shall annually review the completeness and accuracy of the Annual Governance Statement.

e) The Council's Chief Officers are responsible for ensuring that appropriate and adequate internal controls exist, independently of any Internal Audit activity. Chief Officers must establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

f) When an Internal Audit report is issued, it is for management to decide whether to accept and implement audit findings and recommendations. Any decision to reject a formal recommendation must be justified, in writing, on the Schedule of Recommendations issued by Internal Audit within the audit report at the end of each audit assignment. It is the Head of Internal Audit's duty to consider taking matters to a higher level of management, or to the Accounts and Governance Committee, if it is felt that a risk should not (or need not) be borne.

g) The Director of Finance shall be Head of Internal Audit. He is responsible for preparing the Audit Plan and submitting various reports to the Accounts and Governance Committee on a regular basis, including 'Completed Audit Reports', 'Implementation of Internal Audit Recommendations', the 'Annual Report' the 'Strategic Audit Plan' and the 'Review of Effectiveness of Internal Audit'.

h) Due to the fact that the role of the Head of Internal Audit is undertaken by the Director of Finance (see above) who also has some operational responsibilities for some of the functions that are audited, it is accepted practice that, should the Senior Auditor or external contractor have any concerns about suppression of audit evidence, or the conduct of the Director of Finance, then they have full authority to report directly to the Chief Executive or the Accounts and Governance Committee.

i) The Director of Finance, or his authorised representative, shall have authority at all reasonable times to:

   i) enter lawfully on any Council premises or land;

   ii) have access to all records, documents and correspondence relating to any financial or other transactions of the Council;

   iii) require and receive such explanations as are necessary concerning any matter under examination; and

   iv) require any employee of the Council to produce cash, stores, or any other Council property under his control.

j) Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property of the Council, or any suspected financial irregularity in the exercise of the functions of the Council, the Chief Officer concerned shall, forthwith, notify the Director of Finance, or Internal Audit, who shall ensure that such steps have been, or are taken, as he considers necessary, by way of investigation and report. The Director of Finance will keep the Chief Officer informed of any matter under investigation.

k) Internal Audit has the right to report directly to the Chief Executive, external audit, the Accounts and Governance Committee, or the Leader of the Council, if warranted by the circumstances.

l) Internal Audit shall co-ordinate its work with ????? for the benefit of the Council and to avoid duplication of effort. An Internal Audit protocol shall be maintained to set out the basis for the managed audit arrangements between the Council's internal audit service and the Audit Commission.

m) Chief Officers or managers entering into agreements with third parties should include a requirement that the Council's Internal Audit section has a right of access to all documentation and records in which the Council has a financial interest.

8) Banking Arrangements, Cheques and BACS

a) All arrangements with the Council's bankers shall be made by the Director of Finance, who shall be authorised to operate such banking accounts, including National Giro and Euro accounts, as he may consider necessary.

b) All cheques shall be ordered only on the authority of the Director of Finance, who shall make proper arrangements for their safe custody.

c) Cheques on the Council's main banking accounts, including National Giro accounts, shall bear the facsimile signature of the Director of Finance, or be signed by the Director of Finance, or other officer authorised to do so. All cheques drawn for an amount in excess of £10,000 shall be countersigned by an authorised officer of the Director of Finance's Department.

d) The use of BACS should be maximised both for payments and income.

9) Contracts for Building, Construction, Engineering, or Consultancy Work

a) These Rules apply to the accounting treatment of contracts after they have been awarded. (The tendering and award of contracts for building, construction, engineering, or consultancy work, is covered by the Procurement Rules). Nothing in these Rules shall detract from duties or responsibilities of the Architect, Engineer, Supervising Officer, or Consultant, as specified in the Contract.

b) A written agreement specifying conditions of employment, including the basis of remuneration, shall be entered into with every consultant appointed for the purpose of any contract work. The agreement shall specify that any consultant employed by the Council will be subject to the requirements of these Rules.

c) Where contracts provide for payment to be made by instalments, the officer responsible for the contract shall maintain a record of the state of account of the contract within the Contract Register set up within the Works Ordering Module of the Financial Management System. Once the final account is agreed, the Director of Finance should be notified.

d) Payments to contractors on account of contracts for works shall be made only on a certificate issued by the Chief Officer of the department concerned, Architect, Engineer, Supervising Officer, or Consultant, engaged by the Council as may be appropriate. Each certificate shall show as follows:

i) the amount of the contract;

ii) the value of the work executed to date;

iii) the total amount previously certified;

iv) the retention money; and

v) the amount to be certified for payment. All certificates shall be issued and payments on account to contractors shall be made promptly.

e) Subject to the provisions of the contract

i) in each case, every extra or variation shall, unless otherwise evidenced to his satisfaction, be authorised in writing by the Chief Officer of the department concerned, Architect, Engineer, Supervising Officer, or Consultant.

ii) The officer in charge of the contract may issue variations for constructional reasons and those arising from unforeseen circumstances occurring during the period of the contract, from errors in the preparation of contract documents, or from subsequent legislation, provided that any extras or variation which, together with previously approved extra or variation, will cause the contract sum to be exceeded by 10%, or £50,000, whichever is the lower, shall be reported to the appropriate Executive Member, as soon as is practicable. The report should also show the cumulative effect of approved extras and variations on the original tender figure.

iii) Variations not covered by paragraph 9) e) ii) above, eg improved finishes, specifications, services, or extra accommodation etc, may be issued by the officer in charge of the contract in respect of any variation which involves additional expenditure and the estimated cost of which exceeds 5% of the contract sum, or £5,000, whichever is the higher, provided that such variation shall be reported to the appropriate Executive Member as soon as practicable.

f) In any contract where price fluctuations are a contractual commitment, the following shall apply:

i) when tenders are reported, an estimate of total price fluctuations shall be included in the report so that the Executive Member may have a realistic assessment of the final cost; and

ii) during the contract, actual and estimated price fluctuations shall be monitored regularly.

g) Chief Officers responsible for contracts must ensure that suitable procedures are followed in their departments for the effective cost control of all contracts. A cost statement shall be prepared quarterly for each contract exceeding £50,000 in value, taking into account all known factors, eg variations, adjustment of pc sums, provisional sums and other items.

h) The Director of Finance shall have the opportunity to examine the final measurement and valuation of all relevant documents, prior to issue of the final certificate by an officer or consultant appointed by the Council. The officer or consultant in charge of the contract shall ensure that adequate site records relating to items such as day works and instructions to the contractor, are maintained.

i) The Director of Finance shall, to the extent he considers necessary, examine final accounts for contracts and he shall be entitled to make all such enquiries and receive such information and explanations as he may require in order to satisfy himself as to the accuracy of the accounts.

j) Where the completion of the contract is likely to be delayed, it shall be the duty of the appropriate Chief Officer to take any necessary action and to report to the Executive Member concerned.

k) Disputed or contentious claims not clearly within the terms of the contract shall be referred to the Director of Corporate and Legal Services for

consideration of the Council's legal liability, and to the Director of Finance for financial consideration, before a settlement is reached. Any such settlement shall be reported to the appropriate Executive Member.

l) Every three months, each Executive Member will receive a contracts report. This will detail progress, including financial, on each contract within his/her portfolio.

10) Land and Property

a) The Director of Corporate and Legal Services shall maintain a terrier of all land and property owned or controlled by the Council, recording the holding committee, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

b) The Director of Corporate and Legal Services shall notify the Director of Finance and all other Chief Officers of details of rights and liabilities in respect of properties coming into the ownership or control of the Council. The Chief Executive shall also notify the Director of Finance and all other Chief Officers of the disposal of properties.

c) The Director of Corporate and Legal Services shall keep all title deeds securely.

d) The Director of Finance shall maintain a register of all of the Council's assets in compliance with the requirements of CIPFA. This is to include any plant and machinery over £5,000.

11) Income

a) The collection of all money due to the Council shall be under arrangements approved by the Director of Finance.

b) Each Chief Officer shall furnish the Director of Finance with details of work done, goods supplied, or services rendered, to enable him to record correctly all sums due to the Council and to ensure that invoices are sent out expeditiously.

c) Except where the Director of Finance has otherwise agreed, all receipt forms, books, tickets and other similar items (including electronic formats) shall be ordered and supplied to departments by the Director of Finance, who shall satisfy himself as to the arrangements for their control.

d) All monies received by an officer on behalf of the Council shall be paid promptly to the Director of Finance, to the Council's bank account. No deduction may be made from such money, save to the extent that the Director of Finance may specifically authorise. Where cheques are received, an identifying reference to the debt shall be entered on both the reverse of the cheque and the bank paying-in slip.

e) Personal cheques shall not be cashed out of the money held on behalf of the Council.

f) Every transfer of imprest, petty cash etc from one member of staff to another, shall be evidenced in the records of the departments concerned, by the signature of the receiving officer.

g) The Director of Finance shall, in conjunction with the Chief Officer concerned, submit to the relevant Executive Member, as part of the annual budget cycle, a report on fees and charges for the forthcoming year, except where setting charges has been delegated to him. Non-delegated fees and charges are:

Resources Portfolio Holder – Land Charges Fees

Community Portfolio Holder – Car Parking Charges and Leisure Charges

12) Insurances

a) The Director of Finance shall arrange all insurance cover and negotiate all claims in consultation with other officers where necessary.

b) Chief Officers shall give prompt notification to the Director of Finance of all new risks and the acquisition of properties, vehicles, plant and equipment which require to be insured and of any alterations affecting existing insurances.

c) Chief Officers shall immediately notify the Director of Finance and then confirm in writing any loss, liability, or damage, or any event likely to lead to a claim, and inform the Police where necessary.

d) The Director of Finance shall, annually, or at such other shorter period as he may consider necessary, review all insurances in consultation with other Chief Officers as appropriate.

e) Chief Officers shall consult the Director of Finance and the Director of Corporate and Legal Services in respect of the terms of any financial indemnity which the Council is requested to give.

13) Inventories

a) Inventories shall be maintained by all departments of all items of office furniture, fittings and equipment with a purchase value of over £100. The form in which the inventories shall be kept shall be determined by the Director of Finance.

b) A register of IT equipment, including PCs, will be maintained by the IT Services Manager.

c) Each Chief Officer shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to disposals, or obsolete equipment, and amending the inventory accordingly. Any disposals must be in accordance with the guidelines published on the Intranet.

d) The Council's Insurance Officer will annually ask departments for an updated copy of the inventory lists.

e) The Council's property shall not be removed, otherwise than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes.

14) Write-Offs and Losses

A Chief Officer shall inform the Director of Finance, in writing, of proposed write-offs and losses of any assets (stock, equipment etc).

15) Investments, Borrowings and Trust Funds

a) If appropriate, the Council will appoint Fund Managers to manage part of the Council's investments.

b) All investments of the Council's money shall be made in the name of the Council, by the Director of Finance, or by the Council's appointed Fund Managers.

c) All negotiable instruments, bonds and securities in the name of the Council, or its nominees, shall be held in custody of the Director of Finance or the Fund Manager.

d) All borrowings shall be effected in the name of the Council, by the Director of Finance, in accordance with the statutory requirements in force at the time of the borrowing.

e) The Director of Finance shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.

f) All trust funds shall, wherever possible, be in the name of the Council.

16) Payment of Accounts

a) The Director of Finance shall be responsible for making all payments of monies due from the Council, with the exception of payments from approved petty cash or advance accounts, or approved corporate credit/procurement cards.

b) The Chief Officer issuing the order shall be responsible for examining, verifying and certifying the related invoice(s). A list of officers authorised by each Chief Officer to raise orders and certify invoices, claim forms and other vouchers on his behalf, shall be submitted to the Director of Finance on an annual basis.

c) Before certifying an invoice, the certifying officer shall have satisfied himself that:

i) the work, goods or services to which the account relates have been received, carried out, examined and approved. This must be a different officer from the officer certifying the invoice;

ii) the prices, calculations, discounts, other allowances, credits and tax are correct;

iii) the relevant expenditure has been properly incurred, is within the relevant estimate provision and is correctly coded;

iv) appropriate entries have been made in inventories, stores, records or stock books as required; and

v) the account has not been previously passed for payment and is a proper liability of the Council.

d) Duly certified accounts shall be passed, without delay, to the Director of Finance, who shall check that the steps outlined in 16) c) above have been undertaken.

e) Any amendment to an account shall be made in ink and initialled by the officer making it, stating briefly the reasons where they are not self-evident. VAT tax invoices may not be amended: adjustments must be made by the issue of a credit note or supplementary invoice and require to be agreed with the supplier.

f) Each Chief Officer shall, on request, notify the Director of Finance of all outstanding expenditure relating to the previous financial year.

17) Lost Property

a) The Director of Finance shall determine how lost property is dealt with. Detailed guidance is available on the corporate section of the Intranet.

b) Private property is not covered by the Council's insurance.

18) Salaries

a) The payment of all salaries, compensation and other emoluments to all employees, or former employees of the Council, shall be made by the Director of Finance, or under arrangements approved and controlled by him.

b) Each Chief Officer shall inform the Human Resources Section, in the prescribed form, of all matters affecting the payment of such emoluments and in particular:

i) appointments, resignations, dismissals, redundancies, retirements, deaths, suspensions, secondments and transfers;

ii) absences from duty for sickness, or other reason, apart from approved leave;

iii) changes in remuneration, other than normal increments and pay awards and agreements of general application; and

iv) information necessary to maintain records of service for superannuation, income tax, national insurance, statutory sick pay, etc.

The Human Resources Section will pass the above information to the Financial Services Section: if this is received by the seventh day of the month, it will be paid in that month.

c) Appointments of all employees shall be made in accordance with the Council's approved establishments and its Pay Policy.

d) All time records or other pay documents shall be in a form prescribed or approved by the Director of Finance and shall be certified in manuscript by a supervisor authorised by the Chief Officer of the department concerned. The names of officers authorised to sign such records shall be sent to the Financial Services Section, by each Chief Officer, together with specimen signatures.

19) Security

a) Each Chief Officer is responsible for maintaining proper security, at all times, for all buildings, stocks, stores, furniture, equipment, cash and all things under his or her control. The Director of Finance shall be consulted in any case where security in regard to cash or financial arrangements is thought to be defective, or needing special security arrangements. Chief Officers shall also inform the Chief Executive of the existence of any special security risks, or the need for improvement in security arrangements.

b) Keys to safes and similar receptacles are to be either carried on the person of those responsible, or secured in a locked key cupboard. The loss of any such keys shall be reported to the relevant Chief Officer forthwith.

c) Each Chief Officer shall be responsible for maintaining proper security and privacy of all personal information held within his or her department.

20) Stocks and Stores

a) Each Chief Officer shall be responsible for the care and custody of the stocks and stores in his or her department.

b) Stocks shall not be in excess of normal requirements.

c) Chief Officers shall arrange for periodical examinations of stocks and shall ensure that all stocks are checked at least once in every year.

d) The Director of Finance shall be entitled to receive from each Chief Officer such information as he requires in relation to stores for the accounting, costing and financial records, including a certificate signed by a Chief Officer as to the level of stocks and stores under his or her control. Any surplus requirements shall be disposed of.

21) Travelling and Subsistence Allowances

a) As far as possible, all claims for payment of car allowances, travelling, subsistence and incidental expenses, shall be submitted electronically via the Transfare system by the deadline date which is posted on the Transfare system each month. Any claims submitted on paper claims to be submitted by the seventh of the month for payment in that particular month. All claims, either electronic or manual, shall be authorised by an authorised officer. Each Chief Officer shall notify the Director of Finance

annually of officers within his or her department authorised to authorise travel and subsistence claim forms for payment.

b) The certification by, or on behalf of the Chief Officer, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

c) Claims by Chief Officers (other than the Chief Executive) shall be authorised by the Chief Executive. Claims by the Chief Executive shall be certified by the Director of Finance.

d) Officers' claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the Director of Finance.

22) Agency Services

These Rules shall apply to services carried out by the Council on behalf of another public body, except where the body concerned has financial regulations in force which apply to the works or services carried out on its behalf.

23) Code for Treasury Management

a) This Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 4 of the Code. Accordingly, this Council will create and maintain, as the corner-stones for effective treasury management:

i) a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities; and

ii) suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

b) The content of the Policy Statement and TMPs will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment, where necessary, to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key recommendations.

c) The Policy Statement will set out how the Council guards against Money Laundering.

d) This Council (ie full Council) will review annually its treasury management policies and practices.. This Council delegates responsibility for the implementation and the execution and administration of treasury management decisions to the Director of Finance, who will act in accordance with the organisation's policy statement and TMPs and, if he or she is a CIPFA member, CIPFA's 'Standard of Professional Practice on Treasury Management'.

The Council will consider an annual strategy and plan in advance of the year and an annual report after its close in the form prescribed in its TMPs. The Accounts and Governance Committee will review the Council's cash deposits at each of its scheduled meetings.

24) Determination of Borrowing Requirement

Under the CIPFA Prudential Code for Capital Accounting (which is an approved practice under the Local Government Act, 2003), the Council is required to determine its borrowing each year. The Director of Finance will include this as part of the Budget Requirement report that is taken to Council annually.

25) Reporting of Fraud, Theft and Corruption

Whenever any matter arises which involves, or is thought to involve, fraud, theft or corruption, the matter is to be reported immediately (via the relevant Chief Officer if preferred) to the Director of Finance or, in his absence, the Senior Auditor, who shall take such steps as he considers necessary by way of investigation and report as detailed in the Anti-Fraud, Theft and Corruption Strategy (this is available on the Council's Intranet.) Chief Officers shall, meanwhile, take any appropriate action to prevent further loss and secure records and documentation against removal or alteration. Definitions are given below as a guide:

Theft	Dishonestly appropriating property belonging to another, with the intention of permanently depriving them.
Fraud	The intentional distortion of financial statements, or other records, by persons, internal or external to the organisation, carried out to conceal the misappropriation of assets, or otherwise, for gain.
Corruption	The offering, giving, soliciting, or acceptance of an inducement, favour or reward, which may influence the actions taken by the Council, its Members, or officers. It also includes using personal relationships to influence actions.

26) Management of Partnerships

a) The Council has a Protocol for Partnership Arrangements. This can be found on the Financial Services Section of the Intranet. Any officer considering entering into any partnership should comply with the Protocol.

b) Prior to entering into any formal partnership arrangements, the Director of Finance and the Director of Corporate and Legal Services shall be consulted.

c) The Director of Finance will maintain a database of all partnerships that have either a significant legal or financial commitment. This will be updated on a biannual basis.

27) Emergency Events

a) In an emergency, it is important to balance the need to respond promptly and the need to retain accountability. Part of properly dealing with financial

matters is to ensure that the appropriate organisation pays for goods and services in the first instance and that records are such as to enable the billing of third parties and the claiming of Government emergency funds etc.

i) **Budgeting for, and Committing of, Expenditure**

In the initial stages of an emergency there may be a need to commit expenditure very rapidly. The Director of Finance or, if he is unavailable, the Council's Emergency Co-ordinator (as per the Eden Emergency Response Plan (EERP)), can authorise any reasonable expenditure.

ii) As soon as possible, the Director of Finance, or the Financial Services Manager, will liaise with the Chief Executive (or, if unavailable, any other member of Management Team) and the Leader (or, if unavailable, any other Executive Member) to agree:

(1) an initial emergency budget;

(2) an emergency scheme of budget delegation: the normal delegated levels may not give the required level of flexibility in responding to any emergency. Any such emergency delegation scheme should be for a limited life. The EERP sets out a pro-forma delegation which should be followed.

Unless anticipated gross expenditure is in excess of £500,000, the budgets and expenditure against them will be reported to the next normal meeting of the Executive, or Council.

If the anticipated gross expenditure is in excess of £500,000, a special Council will be convened, as soon as practicable, to agree the budgets set up and the financial implications of the emergency.

iii) **Accounting**

The detailed codes set up by Financial Services should be used for all expenditure and income associated with the emergency.

iv) **Orders**

(1) if the Task system is available, orders should be placed using the system. However, if speed is of the essence, orders may be placed by telephone, with the Financial Management System being used as a confirmation

(2) if Task is not available, telephone orders can be made, with an appropriate note being sent through to Financial Services.

28) Annual Revision

These Accounting and Audit Rules should be reviewed annually by the Director of Finance as part of the annual review of the Constitution.

H Procurement Rules

1) General

a) The Rules, in conjunction with the Accounting and Audit Rules, comply with the requirements for Standing Orders under S135 of the Local Government Act 1972.

b) Procurement is the process by which the Council manages the acquisition of all its goods, services and works: land acquisition and disposal are excluded.

c) These Procurement Rules provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that:

i) all procurement activity is conducted with openness, probity and accountability

ii) the Council obtains value for money and the required level of quality and performance in all its procurement.

d) In these Rules the following definitions apply:

Authorised Officer	Any officer who, by the nature of his or her job, or as directed by a manager, is authorised to undertake procurement activity.
Chief Officer	One of the following: Chief Executive, Director of Technical Services, Director of Finance, Director of Corporate and Legal Services, or Director of Policy and Performance.
Contract	Any form of contract, agreement, or other arrangement, for the supply of goods, services, or works.
Director of Finance	Includes the Director's deputy, the Financial Services Manager.
Executive Member	A member of the Council's Executive.
Goods	All supplies and materials that the Council purchases, or obtains.
Guidance	The Council's Procurement Guidance.
Leader	The Leader of the Council, as appointed by full Council.
Management Team	The Chief Executive and other Chief Officers acting corporately.
Senior Auditor	The Council's in-house Internal Auditor.

Services	Includes all services which the Council purchases, or obtains, including advice, specialist consultancy work, agency staff, etc.
Works	Covers all construction and property-related procurement.

e) All values referred to in the Rules are exclusive of VAT.

f) Throughout these Rules the Director of Finance shall deputise for the Senior Auditor in his absence, and vice versa.

g) Every procurement made by, or on behalf of the Council, shall comply with these Rules and no exception from any of the provisions is allowed, except by agreement of:

i) procurements less than £50,000 - the relevant Chief Officer and the Director of Finance;

ii) procurements in excess of £50,000, but less that £100,000 - the Executive; and

iii) procurements in excess of £100,000 - Council.

2) Orders for all Work, Goods and Services

a) Official orders shall be in the manner approved by the Director of Finance and shall be issued only by authorised officers. A list of authorised officers shall be submitted by each Chief Officer, to the Director of Finance, on an annual basis.

b) Official orders shall be issued for all work, goods, or services to be supplied to the Council, except for supplies of public utility services, periodical payments, such as rents or rates, petty cash purposes, or where a formal contract is entered into, or such other exceptions as the Director of Finance may approve.

c) No order shall be issued for work, goods, or services, unless the cost is covered by an approved budget, or by special financial provision. Under no circumstances should personal goods/requirements be ordered via an official Council order.

3) Procurements Under £50,000

a) The following apply where any individual purchase or contract is less than £50,000 in total. Artificial breaking down of any procurement so that individual elements are less than this limit is not permitted.

b) Purchases of less than £2,500 do not require competitive quotes. However, officers should be satisfied that the purchase gains value for money for the Council. Officers are encouraged to obtain comparisons. This can be done by using catalogues, or various internet sites. Other relevant sources are trade magazines and recommendations from other staff/councils. It is suggested that, where the value of the procurement is greater than £100, a record is made of why the supplier was chosen.

c) Chief Officers shall normally obtain at least two competitive quotations where the estimated cost of the goods or services exceeds £2,500, but is less than £10,000. From 10,001 to £50,000, three quotes should be sought. Such quotations should be in writing (this includes e-mail). Less than three quotations may be sought where it is not practicable to do otherwise. In such cases, the Chief Officer shall keep a written record of the reasons.

d) For quotes over £10,000, use of The Chest should be considered (see 4.6.1.2 below).

e) An exception to the above is where use is made of a price list previously tendered by a body such as GCat (produced by the Office of Government Commerce) or Cumbria Supplies (the County Council's purchasing organisation). In such cases, no further quotes are required.

f) In general, the lowest price should be accepted: it is assumed that the quotation process will have been clear on setting out the required specification. However, each Chief Officer can approve a written request from an Authorised Officer, with stated reason, to accept a quotation other than the lowest, where there is good reason to do so. Such approved requests should be recorded and all relevant documents and correspondence retained by the Chief Officer concerned.

g) Procurement (corporate credit) cards can be used for purchases. All procurement cards must be specific to individual officers, with an individual total credit limit, as authorised by the Director of Finance. Advice on the use of procurement cards is set out in the Guidance.

h) Any purchase of goods, works, or services which requires the Council to enter into a formal written agreement with the supplier, shall not take place until the terms of that agreement have been referred to the Director of Corporate and Legal Services and approved by him/her.

4) Procurements Over £50,000

a) When the estimated value of the goods, works, or services to be procured exceeds £50,000, the relevant Chief Officer shall invite competitive tenders on the following basis:

Numbers of Tenders to be Sought

The following should normally be the maximum and minimum number of tenders being sought:

Tender Value £	Number of Tenders Being Sought	
	Minimum	Maximum
50,000 - 100,000	3	5
100,000+	4	6

The Chief Officer shall have authority to accept a tender and direct that a contract be entered into on the basis set out in paragraphs 4) k) and 4) l) below.

b) The Chief Officer shall determine which one of the following tender procedures is adopted:

i) **Open Tendering**

At least fourteen days' public notice is to be given in one or more local newspapers circulating in the area of the Council and in such trade journals (if any) as the Chief Officer considers appropriate, stating the nature, purpose and extent of the proposed contract, inviting tenders and stating the date by which tenders must be received.

ii) **Standing List: Constructionline**

The list of tenderers shall be compiled by the Chief Officer from those persons who have been vetted and included on the approved national Constructionline database. The Constructionline database is the national listing of approved companies maintained on behalf of the Department of Communities and Local Government. The Chief Officer shall maintain a record of each list so compiled.

iii) **Special List**

The Chief Officer may compile a Special List of tenderers for the procurement of works, goods or services, provided that:

(1) the estimated value of the works, or the supply of goods or services, does not exceed £100,000;

(2) the tenderers shall be persons who, in the professional judgement of the Chief Officer, have the skills and capacity to efficiently complete the work, the goods, or services; and

(3) prior to the invitation to tender, the Chief Officer shall have recorded the list of tenderers, together with his/her reasons for using a Special List and inclusion of specific tenderers thereon and shall have such action approved by the Director of Finance.

(4) Where a Chief Officer considers that a Special List would be appropriate for the carrying out of works, goods, or services, but the estimated value exceeds £100,000, such a Special List can be approved by Council, or the Executive (if less than £500,000).

c) **Sub-Contracts and Nominated Suppliers**

The Chief Officer shall have authority to include sub-contractors and/or nominated suppliers within a larger overall contract, providing that the selection, tender and subsequent award have been in accordance with these Rules.

d) **Work, Goods, or Services Undertaken by Consultants**

Any architect, engineer, surveyor, or other consultant (not being an officer of the Council), who is appointed by the Council for carrying out any work, or the provision of goods, or services, shall ensure throughout the appointment that he shall:

i) comply with these Rules;

ii) at any time during the carrying out of the contract, produce to the Chief Officer, or his/her representative, on request, all the records maintained by him in relation to the contract; and

iii) on completion of a contract, transmit all such records, as requested, to the Chief Officer.

e) **Exceptional Cases**

i) The Executive may decide that only one tender shall be sought where the works to be executed where the goods, works, or services to be executed:

(1) constitute an extension of the existing contract, provided that the Chief Officer may authorise an extension to a cost up to 10% above the approved allocation, or £100,000, whichever is the lesser; or

(2) constitute the continuation of a programme of works commenced by a contractor and the Chief Officer certifies that there are exceptional circumstances why he/she should seek, or negotiate, a tender from that contractor only.

ii) More than one tender need not be sought where:

(1) the goods to be supplied are proprietary articles, or are sold only at a fixed price and no satisfactory alternative is available; or

(2) the Chief Officer certifies that the works to be executed, or the goods to be supplied, are required so urgently as not to permit the invitation of more than one tender; or

(3) the works to be executed, or the goods to be supplied, consist of repairs to, or the supply of parts of, existing proprietary machinery or plant.

Action taken under (1) to (3) above should be reported to the Accounts and Governance Committee.

iii) Procurement can be made using a price list previously tendered by a body such as GCat (produced by the Office of Government Commerce), or Cumbria Supplies (the County Council's purchasing organisation).

f) **Forms of Tendering**

i) **Electronic Tendering**

(1) Electronic tendering is the Council's preferred method of issuing and receiving tenders. This should be made clear to all prospective tenderers.

(2) The Council's electronic tender system is 'The Chest'.

(3) More detailed procedures are set out in the Guidance.

ii) **Hard Copy Tenders**

(1) If hard copy tenders are required:

(a) such tenders shall be returned in one of the Council's pre-printed standard envelopes, or in a plain envelope, which shall be securely sealed and shall bear the word 'TENDER', followed by the subject to which the tender relates;

(b) the tender envelope shall not bear any distinguishing matter or mark by the tenderer to indicate its identity. The Council reserves the right to disqualify any such tender so marked, in the absolute discretion of the Senior Auditor;

(c) if a tender envelope bears any distinguishing matter or mark indicating the identity of the tenderer, immediately upon its receipt at the offices of the Council, the receiving officer shall place it in a plain envelope bearing the word 'TENDER', followed by the subject to which the tender relates. The officer shall sign, date and time such action upon the envelope after sealing it securely; and

(d) where a tender does bear some distinguishing matter or mark and is not disqualified, this shall be noted on the List of Tenders. The circumstances and the awarding of the contract shall be notified to the next meeting of the appropriate committee.

(2) The tenders shall be opened in the presence of any Executive Member, the relevant Chief Officer, or his nominated representative, and the Senior Auditor.

(3) The tender envelopes referred to above shall be addressed impersonally to the Chief Executive and, until the opening time, remain in the custody of the Chief Executive.

g) **Record of Tenders**

A record of tenders received should be made as soon as they have been opened. This record should be in a form agreed by the Director of Finance (see Guidance), signed by those present, filed in the Tendering Opening

File which is kept in the safe: and a copy retained by the relevant Chief Officer.

h) **Late Tenders**

i) Any tender submitted in competition received after the specified time shall be returned promptly to the tenderer by the Chief Executive. The tender may be opened to ascertain the name of the tenderer, but no details of the tender shall be disclosed. Similar arrangements shall be used for electronic tenders.

ii) Notwithstanding these provisions, the Senior Auditor and the appropriate Chief Officer shall have discretion to determine that any such tender can be considered if:

(1) there is evidence of posting/e-mailing in time for delivery by the due date in the normal course of post delivery; or

(2) that, in their opinion, the late tender has not prejudiced the tendering process;

providing always that the other tenders have not then been opened and the circumstances justifying any such acceptance reported by them to the next available committee.

i) **Errors**

Where examination of tenders reveals errors or discrepancies which would affect the tender evaluation in an otherwise successful tender, the tenderers shall be given the details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer. If the tenderer withdraws, the next tender in competitive order shall be examined and dealt with in the same way. Any exception to this procedure may be authorised only by, or on behalf of the committee concerned, after consideration of a report by the Chief Officer of the department concerned.

j) **Basis of Acceptance**

i) Tenders should be sought on one of two bases:

(1) most economically advantageous tender (MEAT); or

(2) the lowest price.

The basis of any criteria for acceptance must be made clear in the tender documentation.

ii) In general, MEAT is likely to be the more appropriate basis. An award on the basis of lowest price should be reserved for commodities such as gas, paper, etc where it is possible to precisely specify the good, or supply, to be procured.

iii) If the basis is MEAT, the assessment of how this will be done should be set out in the tender documents. This should state:

(1) the categories of assessment;

(2) any weighting for each category; and

(3) how the assessment is to be carried out.

Further detail on this method of assessment is set out in the Guidance.

Unless there are exceptional reasons, the weighting given to price should be between 70% and 90%. A lower figure than 70% will require the approval of the appropriate Executive Member.

k) **Acceptance**

i) Tenders sought in accordance with these Rules may be accepted by the Chief Officer of the department concerned, subject to:

(1) the works or goods being included in an approved revenue or capital programme;

(2) the tender to be accepted not exceeding (as opened) by more than 10%, the cost figure approved by the appropriate committee for the works, goods, or services;

(3) if the budget is exceeded, the excess can be met by virement through the procedures laid down by the Accounting and Audit Rules: the Chief Officer should formally record the virement by filling in a virement request form; and

(4) where the accepted sum is over £100,000, the acceptance shall be reported to the appropriate Executive Member

(5) a member of the Executive having no interest in any contract with the Council.

ii) The proposed acceptance of any tender not in accordance with this section shall be referred for consideration by the Executive (if less than £500,000), or Council. The provisions above also apply where goods, or the rights to operate income-generating services, are being sold.

l) **Form of Contract**

i) A contract shall be drawn up in writing in a form approved by the Director of Corporate and Legal Services and shall specify:

(1) the goods or services to be procured (including any appropriate technical specification(s));

(2) the price to be paid, with a statement of discounts, or other deductions;

(3) the times, or times at, or by which, the contract is to be performed; and

(4) all other material items.

m) **Assignment**

In every written contract for the execution of the work, or the supply of goods or materials, the following clause shall be inserted:

'The contractor shall not transfer or assign, directly or indirectly, to any other person, any part of this contract without the express written permission of the Council. A sub-letting of any part(s) of the contract, except to the extent permitted in writing by the Council officer concerned, is prohibited'.

n) **Liquidated Damages**

Liquidated damages are a pre-estimate of the loss that may arise if the contractual provisions of a contract are not met. Every contract (with the exception of a maintenance contract) which is estimated to exceed £100,000 in value, and is for the execution of works (or for the supply of goods or materials by a particular date, or series of dates), shall provide for liquidated damages. The amount to be specified in each such contract shall be determined by the Chief Officer of the department concerned.

o) **Performance Bonds**

Where a contract is estimated to exceed £500,000 in value or amount, and is for the execution of the works (or for the supply of goods or materials by a particular date, or series of dates), the Chief Officer shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or, in consultation with the Director of Finance, shall specify in the conditions of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.

p) **Specifications and Standards**

i) All tenders shall include a written specification of the proposed works, goods, or services.

ii) Where an appropriate standard, as formulated by a European standards body and implemented by a British Standard specification (BS/EN) is current, all goods and materials used or supplied and workmanship shall be required to conform with that standard, or other equivalent European standard, as a minimum requirement.

q) **Cancellation**

In every written contract, a clause shall be inserted to secure that the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered, or given, or agreed to give to any person, any gift or consideration of any kind, as an inducement or reward for doing, or forbearing to do, or for having done or forborne to do, any act in relation to obtaining, or the execution of the contract, or any other contract with the Council, for the showing or forbearing to show, favour or disfavour to any

person in relation to the contract, or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor) or, if in relation to any contract with the Council, the contractor or any person employed by him, or acting on his behalf, shall have committed any act of dishonesty or corruption.

r) **Health and Safety**

All contracts entered into should comply with the provisions within the Council's General Health and Safety Policy in relation to contracts and contractors.

s) **Public Procurement Requirements**

On some procurements, the Public Procurement Regulations may apply and must always be followed. The current thresholds for specified categories of goods and services are set out in the Guidance.

t) **Project Management Arrangements**

All procurements with an expected lifetime cost in excess of £1,000,000, or involving substantial organisational change, must be conducted in accordance with PRINCE II (see Guidance) and both the project mandate and the project brief must be agreed by Management Team or, in the case of Information Technology projects, the Electronic Government Group.

u) **Insurance**

All service providers must be able to provide public liability or professional indemnity insurance as required by the Council. Where applicable, a valid copy certificate shall be required for the duration of the contract.

5) Procurement Guidance

The detailed implementation of these rules is supported by Guidance which is available in the Procurement section of the Intranet. All officers undertaking procurement should be familiar with this guidance.

6) Diversity

a) All procurement should be undertaken in a non-discriminatory way and promote equality of opportunity.

b) Supporting detail on achieving diversity is set out in the Guidance.

7) Emergency Situations

a) In the acute phase of an emergency, goods and services may be procured on the process that best fits the situation. As far as possible, the approval of the Director of Finance, Chief Executive or Emergency Co-ordinator (under the Eden Emergency Response Plan), should be obtained. A note should be kept of the procurement basis and sent at a convenient time to Financial Services.

b) After the acute phase is over, Procurement Rules should be followed wherever practicable. If this is not considered appropriate in particular instances, dispensation can be obtained from the Director of Finance, or the Chief Executive. They will forward details to Financial Services for record purposes. Dispensations from Procurement Rules will be reported to the next Executive meeting.

8) Conflict of Interest

If it comes to the knowledge of a Member or an employee of the Council that a contract in which he or she has a pecuniary interest has been, or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Council's Director of Corporate and Legal Services. The Director of Corporate and Legal Services shall report any such declarations to the Executive and the Standards Committee.

9) Annual Revision

These Procurement Rules should be reviewed annually by the Financial Services Manager and the Director of Technical Services as part of the annual review of the Constitution.

I Officer Employment Procedure Rules

1) Recruitment and appointment

a) **Declarations**

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

ii) No candidate so related to a Member or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

b) **Seeking support for appointment**

i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

ii) No Member will seek or canvass support for any person for any appointment with the Council.

2) Recruitment of head of paid service and chief officers

a) Where the Council proposes to appoint a chief officer including the Head of Paid Service (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

i) draw up a statement specifying:

(1) the duties of the officer concerned; and

(2) any qualifications or qualities to be sought in the person to be appointed;

ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

iii) make arrangements for a copy of the statement mentioned in paragraph i) above to be sent to any person on request.

3) Appointment of head of paid service

The full Council will confirm the appointment of the head of paid service having regard to any recommendation on such an appointment by the Human Resources and Appeals Committee.

4) Appointment of chief officers

The Human Resources and Appeals Committee will appoint chief officers other than the Head of Paid Service.

5) Other appointments
Officers below Chief Officer

The Appointment of officers below Chief Officer level is the responsibility of the head of paid service or an officer nominated by him/her and may not be made by Members.

6) Disciplinary action

a) No disciplinary action, except as described in b) below may be taken in respect of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, except in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).

b) The action mentioned in a) above is the suspension of the officer on full pay for the purpose of investigating the alleged misconduct; and such suspension must terminate no later than the expiry of 2 months beginning on the day on which the suspension takes effect, unless the designated independent person directs that it may continue beyond that period.

c) **Members**

Members will not be involved in the disciplinary action against any officer below section head except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7) Dismissal

Members will not be involved in the dismissal of any officer below section head except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.