

SCRUTINY COMMITTEE - RESOURCES

Date: Thursday 2 October 2014
Time: 5.00 pm (Please note the earlier time)
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Sharon Sissons, Democratic Services Officer (Committees) on 01392 265115 or email sharon.sissons@exeter.gov.uk

Entry to the Civic Centre can be gained through the Customer Services Centre, Paris Street.

Membership -

Councillors Baldwin (Chair), Mottram (Deputy Chair), Bialyk, Brock, Bull, George, Lyons, Morris, Robson, Sheldon, Spackman, Tippins and Winterbottom

Agenda

Part I: Items suggested for discussion with the press and public present

1 Apologies

To receive apologies for absence from Committee members.

2 Declarations of Interest

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

3 Local Government (Access to Information) Act 1985 - Exclusion of Press and Public

It is considered that the Committee would be unlikely to exclude the press and public during the consideration of any of the items on the agenda but, if it should wish to do so, the following resolution should be passed:-

RECOMMENDED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for consideration of the particular item(s) on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I, Schedule 12A of the Act.

MATTERS FOR CONSIDERATION BY THE EXECUTIVE

4 Arrangements for the Provision for the Joint Management of Strata

To consider the report of the Corporate Manager - Legal Services and Monitoring Officer. (Pages 3 - 32)

Date of Next Meeting

The next **Scrutiny Committee - Resources** will be held on Wednesday 19 November 2014 at 5.30 pm

Future Business

The schedule of future business proposed for this Scrutiny Committee and other Committees of the Council can be viewed on the following link to the Council's website:

<http://www.exeter.gov.uk/forwardplan>

Councillors can view a hard copy of the schedule in the Members Room.

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265111.

REPORT TO SCRUTINY RESOURCES COMMITTEE, EXECUTIVE, COUNCIL

Date of Meeting: 2 October, 7 October, 15 October 2014

Report of: Corporate Manager - Legal Services

Title: Arrangements for the Provision for the Joint Management of Strata

Is this a Key Decision?

YES

Is this an Executive or Council Function?

Both - please see the recommendations set out in paragraph 2 below.

1. What is the report about?

- 1.1 Members will know that Teignbridge District Council, Exeter City Council and East Devon Council have formally resolved to implement a shared ICT service through a wholly owned company to be known as "Strata".
- 1.2 The purpose of this report is to set up a structure for the governance and scrutiny of Strata as follows:
 - (a) A Joint Executive Committee (JEC) to govern Strata and
 - (b) A Joint Scrutiny Committee (JSC) to scrutinise Strata.
- 1.3 In order to achieve this, each authority is asked to amend its Constitution to establish the joint committees with terms of reference set out below in this report.
- 1.4 The proposed 'go-live' date for Strata is 1 November 2014.
- 1.5 The Executive of each Council has power to delegate powers to the JEC but the amendments to the Constitution to create and delegate powers to the JSC is a Full Council Function.

2. Recommendations:

2.1 That Teignbridge District Council, Exeter City Council and East Devon District Council jointly agree following:

- 2.1.1 That the Executive/Cabinet of each authority resolves to:
 - (a) Appoint a Joint Executive Committee (JEC) together to govern Strata with effect from the go live date on the 1 November 2014.
 - (b) Appoint its Leader to the JEC.
 - (c) Agree the JEC's terms of reference set out in the Appendix and summarised in paragraph 9 of this report.
 - (d) Adopt the Rules of Procedure for the JEC set out in the Appendix to this report.

- (e) To agree the composition and delegation to the Strata Management Board as set out in paragraph 13 to this report.

2.1.2 That Council for each authority resolves to amend its Constitution to:

- (a) Appoint a Joint Scrutiny Committee (JSC).
- (b) Agree the JSC Terms of Reference as set out in paragraph 10-12 of this report.
- (c) To nominate a total of 3 members from each authority to sit on the JSC in compliance with the rules on political balance.
- (d) To adopt the Rules of Procedure for the JSC set out in the Appendix to this report.

2.1.3 Each hosting authority will convene and support the meeting.

3 Reasons for the recommendation:

To enable the joint management of Strata by Teignbridge, Exeter and East Devon District Council.

This structure is designed to allow decisions to be taken once by the Joint Committee and will be binding on all Councils. This will speed up the decision-making process and eliminates the possibility that a Council may take conflicting decisions.

4. What are the resource implications including non financial resources.

In July 2014, the Council agreed a joint ICT shared service business plan and implementation plan. The implementation plan included the need to bring back to the Executive and Council this report on the proposed structure and scrutiny arrangement of Strata.

Proposals and implementation to date are on track and within the approved budget.

The Council will be responsible for agreeing an annual budget to be passed to Strata and the JEC will receive financial monitoring reports to ensure the company is operating within the approved overall budget allocated to it from the three councils.

5. Section 151 Officer Comments:

There are no financial implications contained within the report, however it does contribute towards the successful set up of the Joint IT Company, which is forecast to generate savings for the Council.

6. What are the legal aspects - basic principles of Joint Committees?

- 6.1 Section 101 of the Local Government Act 1972 enables a local authority to enter into arrangements for the discharge of its functions jointly with, or by one or more other authority.

- 6.2 Section 102 of the Local Government Act 1972 contains a power to appoint Joint Committees.
- 6.3 Teignbridge, Exeter and East Devon all operate an Executive / Cabinet and Leader model and each has a slightly different mechanism for amending its Constitution.
- 6.4 A JEC and JSC will comprise members from each of the Councils and, within the powers delegated to it by each Council, the Joint Committees can take a decision, or make recommendations in the case of scrutiny, on behalf of each of the Councils.
- 6.5 A decision is taken once by the Joint Committee and will be binding on all Councils. This speeds up the decision-making process and eliminates the possibility that a Council may take conflicting decisions.
- 6.6 Decision making at the JEC level will require unanimity of vote.
- 6.7 The appointment of members to the JEC is not subject to the usual requirement of political balance but a JSC would be.
- 6.8 A JEC can only do what its participating Councils authorise it to do. It can only act within the powers delegated to it and, within each of the Council's area, within the budget and strategic policy framework approved by that participating Council.
- 6.9 Executive functions can only be exercised within the budget and strategic policy framework set by each of the Councils. Any proposed decision which is contrary to the Council's approved budget or strategic policy framework must be referred to each Full Council for decision.
- 6.10 Where, Executive functions will be delegated to the JEC, it operates as a Committee of the Executive of the participating Councils, which means that it operates under the Executive Decision Procedure Rules.

This means that the hosting authority will need to publish a Forward Plan of anticipated "Key Decisions" and meetings will need to be held in public. Paragraph 29 of the Rules of Procedure set out as in the Appendix to this report deal with this requirement.

- 6.11 As for all local authority meetings, every member of the Joint Committees (except co-opted non-voting members) will have an equal vote.
- 6.12 **Who can be appointed to a joint committee?**
- 6.13 Only Executive members of each authority may be appointed to the JEC.
- 6.14 The JSC may not have an Executive member from any of the three authorities appointed to it. The members to be appointed to the JSC will be chosen by the Party Leaders of each of the Councils.

7. Monitoring Officer's comments:

- 7.1 The Head of Law from each authority met to agree these joint provisions and are happy to put these joint arrangements forward as the most prudent way to jointly manage and scrutinise Strata.

- 7.2 Advice has been taken from Bevan Brittan solicitors who strongly recommend that each of the Councils each make identical delegations.
- 7.3 A delegation can be revoked or amended at any time by the person or body which made the initial delegation of powers to the joint committee.
- 7.4 The JEC will not be able to enter the contract with Strata in its own name but can recommend that each of the participating Councils will enter the contract. In practice, each participating Council can enter the contract, accepting joint and several liability for the whole of the contract, but the Shareholder Agreement will share out the contractual liabilities between the participating Councils and indemnify each other for any losses which they cause each other.

8. BACKGROUND

- 8.1 In order to be able to commence on 1 November 2014, it is essential that the governance and scrutiny arrangements are agreed by each of the three authorities through their full Council and Executive meetings scheduled to take place shortly.

The completion of the following three key documents is dependent on agreeing the governance and scrutiny arrangements:

- Articles of Association - these are Strata's constitution and the rules about running the company and cover, for example, how decisions are made and the roles of the directors and the shareholders.
- Shareholder Agreement - the agreement governing the relationship between the Councils including how budget surpluses may be dealt with, dispute resolution and exit arrangement.
- Service Contracts - the agreements between Strata and the Councils governing the provision of the services.

9. Suggested Structure of the Joint Executive Committee.

9.1 Composition

- The Leaders of each of the Councils, each with an equal vote and
- The three Chief Executives (as co-opted non-voting members)

9.2 Nominees

Leaders or Chief Executives may send nominees in their absence provided not less than 24 hours notice is given to the Proper Officer of the hosting authority.

In the case of Leaders, any nominee must also be an Executive member.

9.3 Meetings

The JEC should meet bi-monthly for the first year of operation of Strata and quarterly thereafter. This frequency can be adjusted to suit the nature, amount and urgency of business.

Meetings must be held in public and therefore they should be conducted at publicly accessible buildings, which also enable disabled access. It is therefore proposed that the venues for meetings of the JEC are the three Councils' offices, hosted on a rotational basis.

Although meetings are to be held in public, it is still possible to discuss exempt and confidential matters in Part II. This is subject to the usual resolution procedure and the same criteria set out in sections 100A and 100I and schedule 12A of the Local Government Act 1972. These provisions enable the public and press to be excluded from meetings and from access to reports and are equally applicable to the JEC.

9.4 Chair

As with the venue, the Leaders will rotate chairmanship of each meeting to be appointed for not more than 12 months unless otherwise agreed by the JEC.

The Chair shall not have a casting vote.

9.5 Quorum

Decisions must be taken on a unanimous basis and so a meeting of the JEC is quorate with three voting members present.

The presence of non-voting co-opted Chief Executives will not affect whether a meeting of the JEC is quorate.

9.6 Powers

JEC will have delegated to it all those powers which, in the absence of the JEC, would be held by the respective Executives to enable the operation of Strata, with the exception of the following decisions which are reserved to the Councils as shareholders:

- Permitting the registration of any additional shareholders into Strata;
- Passing any resolution for its winding up or presenting any petition for its administration;
- Changing the company's name;
- Issuing shares;
- Amalgamating or merging with any other company or business undertaking;
- Forming any subsidiary or acquiring shares in any other company or participating in any joint venture;
- Decisions to extend the scope and nature of services to be provided by Strata, for example to provide HR, Accountancy or Legal services;
- Decisions over a capital or revenue expenditure outside the approved budget.

- Decisions to provide ICT services (or any other services) commercially for external clients or decisions that have an impact on the ability to use the Teckal procurement exemption;
- Declaring or making dividends or distributions of assets of any kind; and
- Ceasing involvement in Strata as a participating shareholder.

10. Suggested Structure of the Joint Scrutiny Committee Composition

- 10.1 The JSC will be made up of 9 members, (3 from each Council).
- 10.2 The JSC will be politically balanced to reflect the political balance of each of the three authorities.
- 10.3 A determination of the allocation of the seats of the JSC must give effect to the following principles which are set out in Section 15 of the Local Government and Housing Act 1989:
- (a) that not all the seats are allocated to the same political group;
 - (b) that the majority of seats are allocated to a particular political group if the number of persons belonging to that group is a majority of the Council's membership;
 - (c) subject to (a) and (b), that the total number of all seats allocated to a particular political group reflects the group's proportion to the membership of the Council;
 - (d) subject to (a) – (c), that the number of seats allocated to a particular political group reflects that group's proportion of the membership of the Council.
- 10.4 Executive members may not be appointed to the JSC.

11. Quorum

- 11.1 The JSC will be quorate if at least three members are present, provided that there is one member from each of the Councils present.

12. The JSC's Terms of Reference shall be to:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the JEC's functions;
- make reports and/or recommendations to the Full Council of each Council and/or the JEC in connection with the discharge of any functions;
- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the JEC;

- consider the decisions of the JEC that have been called-in and make recommendations to the JEC;
- appoint sub-committees, working parties and review groups for particular matters; and
- report annually to each Full Council on its workings and make recommendations for amended working methods if appropriate.

13. Delegation to the Board

The Articles of Association will set out the power of the directors acting as a Board. The model Articles provide that the directors may exercise all the powers of the company. Strata's Articles will need to be amended from the model articles so that directors' powers are restricted. Ordinarily Directors would have more powers than are being proposed here.

The Strata Board comprises three directors, one from each Council, together with the Chief Operating Officer as a non-voting director.

It is suggest that the JEC delegates to the directors all the powers that are delegated to the JEC, except for decisions relating to:

- Appointing Strata management or materially altering the staffing structure;
- Any capital or revenue expenditure not contained within the approved budget and business plans.
- Agreeing the Business Plans;
- Changes to the location(s) from which Strata will operate; and
- Amendments to the terms of the Service Contracts.

14. How does the decision contribute to the Council's Corporate Plan?

This joint arrangement supports the Corporate Plan's objectives of having a well run Council.

15. What risks are there and how can they be reduced?

There are risks associated with this proposal namely:

- The fact that 3 authorities are coming together to share and manage a shared service, particularly a service that is so fundamental to the delivery of services in each authority.
- The implementation of a combined ICT service using one data centre.

However, no risks are identified in the recommendation to manage Strata in the joint way suggested.

Risks will be mitigated through the careful setting up of the company and associated agreements and through effective project management.

It is considered there is greater risk to each council in “doing nothing”. This proposal reduces overall risk by having a larger ICT team with less reliance on key individuals and more time to manage more complex technologies.

16. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

No impact is identified in supporting the recommendations in this report.

17. Are there any other options?

Whilst each of the three authorities could in theory try to manage and scrutinise Strata separately through each of its Executive and Scrutiny meetings, this option is not recommended for the reasons set out in the Monitoring officer section to this report.

Baan AL-Khafaji
Corporate Manager - Legal Services & Monitoring Officer

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

Contact for enquires:
Democratic Services (Committees)
Room 2.3
01392 265275

Strata

Terms of Reference and Rules of Procedure for the Joint Executive Committee and Joint Scrutiny Committee

1. Introduction

1.1 The Delegation of Functions and Rules of Procedure set out in this document regulate the proceedings of the Joint Executive Committee (JEC) and Joint Scrutiny Committee (JSC), both of which were created by East Devon District Council, Exeter City Council and Teignbridge District Council to govern and scrutinise the operation and performance of Strata.

1.2 In this document the following words have the following meanings:

“Board” means the Strata board of directors;

“Chief Executive” means the Chief Executive of a Council and together the **“Chief Executives”**;

“Committee” means both the JEC and JSC (where the Rules differ between the two Committees, this will be explained);

“Council” means East Devon District Council, Exeter City Council or Teignbridge Council and together the **“Councils”**;

“Executive” means the Executive or Cabinet of the Councils;

“Leader” means a Leaders of a Council and together the **“Leaders”**;

“Proper Officer” means Democratic Services Manager, Corporate Manager, Democratic and Civic Support

“Relevant Council” means the Council at which the next Committee meeting will be held;

“Solicitor” means the Solicitor to the Council, the Corporate Manager- Legal Head of Legal Services or for the Councils; and

“Strata” means Strata Service Solutions Ltd.

Section A – Delegation of Functions

1. Joint Executive Committee (JEC)

The Councils have appointed the JEC which will be responsible for the strategic governance of Strata. The JEC will make operational decisions for Strata in accordance with the business plan and service plans, which it will agree. The JEC will provide strategic direction to the Board and be accountable to the Councils as shareholders. The JEC’s responsibility

for governance and performance includes budget monitoring, all of which will be supported by the JSC.

The Councils have each delegated to the JEC all those powers necessary to enable the proper operation of Strata, with the exception of the following decisions which are reserved to the Executive of each of the Councils acting as shareholders of Strata (except for decisions over a capital or revenue expenditure outside the approved budget and business plan which shall specifically be reserved for Full Council to decide):

- Permitting the registration of any additional shareholders into Strata;
- Passing any resolution for its winding up or presenting any petition for its administration;
- Changing the company's name;
- Issuing shares;
- Amalgamating or merging with any other company or business undertaking;
- Forming any subsidiary or acquiring shares in any other company or participating in any joint venture;
- Decisions to extend the scope and nature of services to be provided by Strata, for example to provide HR, Accountancy or Legal services;

Decisions to provide ICT services (or any other services) commercially for external clients or decisions that have an impact on the ability to use the Teckal procurement exemption;

- Declaring or making dividends or distributions of budgetary savings or assets of any kind; and
- Ceasing involvement in Strata as a participating shareholder.

2. The Joint Scrutiny Committee (JSC)

The Councils have appointed the JSC to scrutinise the operation and performance of Strata and its governance arrangements. More specifically the JSC's role is to:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the JEC's functions;
- make reports and/or recommendations to the Full Council of each Council and/or the JEC in connection with the discharge of any functions;
- exercise the right to call-in, for reconsideration decisions made but not yet implemented by the JEC;
- consider the decisions of the JEC that have been called-in and make recommendations to the JEC;

- appoint sub-committees, working parties and review group for particular matters; and
- report annually to each Full Council on its workings and make recommendations for amended working methods if appropriate.

Section B - Rules of Procedure

Contents

1. General	16. Minutes
2. Ordinary Meetings	17. Record of attendance
3. Extraordinary Meetings	18. Exclusion of public
4. Frequency, time and place of meetings	19. Members' conduct
5. Notice of and Summons to meetings	20. Disturbance by the public
6. Chairing of meetings	21. Suspension and amendment of the Rules
7. Committee Composition	22. Motions affecting Staff
8. Quorum	23. Call-in
9. Voting	24. Inspection of documents
10. Questions and statements by the public	25. Inspection of land, premises
11. Questions by members	26. Proceedings at meetings
12. Motions on notice	27. Attendance by members
13. Motions without notice	28. Access to Information
14. Rules of debate	29. Key Decisions
15. Previous decisions and motions	

1. General

- 1.1 These Rules of Procedure (Rules) have been written to provide one set of bespoke procedural rules to govern the meetings of the Joint Committees established to govern and scrutinise Strata. They are designed to augment the existing constitutions of the Councils.
- 1.2 The Chairman of the Committee's view on the interpretation of these Rules is binding at the particular Committee.
- 1.3 These Rules may be reviewed at any time and any amendments must be made unanimously by the Councils following their respective decision making processes.

2. Ordinary Meetings

- 2.1 Ordinary meetings of the Committees will:
- elect a person to chair the meeting which shall be on a rotational basis between the Councils with Chair to be appointed for 12 months unless agreed otherwise by the Committees;
 - deal with any business required by statute to be done before any other business;
 - approve the minutes of the last meeting;

- (iv) deal with business expressly required by statute to be done;
- (v) receive any communications or announcements from the Chairman or the Leaders;
- (vi) deal with any business from the last meeting;
- (vii) consider motions;
- (viii) consider any other business specified in the summons to the meeting;

In addition to (i) – (viii) above the JEC shall:

- (ix) receive reports from the Board;
- (x) consider referrals made to it by the JSC;
- (xi) receive questions on the operation of Strata from members of the Councils and members of the public and provide answers to those questions

In addition to (i) – (viii) above the JSC shall:

- (xii) receive reports on performance from the JEC and auditors; and
- (xiii) report to each Full Council of the Councils annually on the performance of the JEC and Strata.

2.2 The Committees may vary the order of business so as to give precedence to any business. However such a variation shall not displace business falling under items (i) and (ii) in this rule.

3. Extraordinary meetings

3.1 Calling extraordinary meetings

Those listed below may request a meeting of the Committee in addition to ordinary meetings:

- Any of the Councils by resolution;
- the Chairman of any of the Councils
- the Monitoring Officer of any of the Councils having first notified the Chairman of the Councils; and
- the Board;
- any five Members of any of the Councils if they have signed a requisition presented to the Chairman of their respective 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.

3.2 Business

At an extraordinary meeting of the Committees the business to be conducted shall be limited to a single item in the form of a motion full details of which shall be set out on the summons calling the meeting.

4. Frequency, time and place of meetings

- 4.1 In the first year of operation of Strata, there shall be at least six meetings of the Committees.
- 4.2 From the second year of operation of Strata, the JEC and JSC can determine the frequency of the meetings following consideration of the Committee's projected workload. Extraordinary meetings of the Committees can be called in accordance with Section 3 above.
- 4.3 Meetings shall take place at the offices of the Councils on a rotational basis; the first of each Committee shall meet at the offices of East Devon District Council. Thereafter, the locations shall be Exeter City Council and then Teignbridge District Council.
- 4.4 The time and place of meetings will be determined by the Chief Executive of the Relevant Council and notified in the summons.

5. Notice of and summons to meetings

- 5.1 The Chief Executive of the Relevant Council 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 Chief Executive 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.

6. Chairing of meetings

- 6.1 The Chair of the Committee will be rotated and selected from the members of the Committee. The Chair will be appointed for a maximum period of 12 months unless otherwise agreed by the Committee.
- 6.2 The Chairman does not have a casting vote.

7. Committee Composition

7.1 JEC

The JEC shall comprise of three members being the Leaders of the Councils, each with an equal vote together with the Chief Executives as non-voting co-opted members.

JSC

The JSC shall comprise three members of each of the Councils, to be appointed by the group leaders of the Councils. Each member of the JSC shall have an equal vote.

7.2 The Leaders and Chief Executives may nominate a substitute to attend a meeting of the JEC provided that at least 24 hours notice is given to the Proper Officer. Nominees of the Leaders must be members of the Council's Executive.

7.3 The members of the JSC may also nominate a substitute to attend a meeting of the JSC provided that at least 24 hours notice has been given to the Proper Officer.

8. Quorum

8.1 For the JEC the quorum is the three Leaders or their nominees.

8.2 For the JSC the quorum is three with at least one member from each Council.

8.3 During any meeting, if the Chairman 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.

9. Voting

9.1 Voting will be taken by a show of hands.

9.2 Each member has an equal vote.

9.3 The Chairman does not have a casting vote.

9.4 For a decision taken at the JEC, a decision must be unanimous. At the JSC, a decision may be made by the majority of members present.

9.5 There will be no opportunity for a ballot vote.

9.6 If the meeting so decides (prior to a vote being taken) the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

9.7 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. (This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations)

10. Questions and statements by the public

10.1 For both the JEC and JSC, subject to Paragraph 10.2, there shall be a fifteen minute period at the commencement of Committee meetings for members of the public to ask questions. Each individual questioner exercising a right during the public question time to be restricted to speaking for a total of three minutes.

- 10.2 Where a question does not relate to an agenda item, and a response is required from a member or an officer, the question must be submitted in writing to the Proper Officer of the Relevant Council not less than two working days before the meeting to give time for a response to be prepared. Where such advance notice is given, the questioner may ask a supplementary question at the meeting, if it is relevant to the original question.
- 10.3 The Chairman of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.

11. Questions by Members

- 11.1 A member of the Councils may ask the Leader or Chairman any question without notice upon an item of the report to the Committees when that item is being received or under consideration.
- 11.2 A member of any of the Councils may ask a question on notice relating to any function of Strata not to be considered at the Committee meeting provided that they have given at least two working days' notice in writing of the question to the Proper Officer or, where the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the proper Officer of their Council by 9.15am on the day of the meeting.
- 11.3 An answer may take the form of:
- (a) a direct oral answer;
 - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- 11.4 A member asking a question under Rule 11.2 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.

12. Motions on notice

12.1 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least five members of a Council, must be delivered to that Council's Proper Officer not later than ten working days before the date of the meeting. These will be entered in a book open to public inspection.

12.2 Motion set out in agenda

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

12.3 Clarification of motion on notice

Where a motion on notice has been submitted in accordance with this Rule, and prior to the despatch of the agenda, the Chief Executive of the relevant Council may seek to clarify the purpose and/or wording of such a motion (such action may include recommending its rewording) so as to ensure that any such motion, if approved, is compliant with the Committee's legal and administrative powers.

12.4 Referral of motion to relevant committee

Where the wording of the motion is not immediately relevant to the business of the Committee, the presumption is that it will be referred to the relevant Committee in the first instance to enable research to be properly carried out into the issue to facilitate a relevant and informed debate.

12.5 Leader's response to motion

The Chairman, at his discretion, may invite the Leader or his nominee to respond to a motion or a question.

12.6 Scope

Motions must be about matters for which the Committee has a responsibility.

13. Motions without notice

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;

- (m) to suspend a particular procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- (p) to give the consent of the Council where its consent is required by these Rules.

14. Rules of debate

14.1 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.

14.2 Right to require motion in writing

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

14.3 Secunder's speech

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

14.4 Content and length of speeches

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

14.5 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:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) 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);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

14.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) 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.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) 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.
- (e) 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.

14.7 Alteration of motion

- (a) 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.
- (b) A member may alter a motion that 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.
- (c) Only alterations that could be made as an amendment may be made.

14.8 Withdrawal of motion

A member may withdraw a motion that 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.

14.9 Right of reply

- (a) 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.
- (b) 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 proposer of the amendment shall also be entitled to reply
- (c) A member exercising a right of reply shall not introduce new matter.

14.10 Motions that may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 19.2 or to exclude them from the meeting under Rule 19.3.

14.11 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) 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.
- (c) 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.

- (d) 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 or 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.

14.12 Point of order

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these 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.

14.13 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 that may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

15. Previous decisions and motions

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a Committee meeting within the past six months cannot be moved unless the notice of motion is signed by at least 15 members, from a Council or the Councils.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a Committee meeting in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members from a Council or the Councils. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. Minutes

16.1 Signing the minutes

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

16.2 There is no requirement to sign minutes of previous meeting at an extraordinary meeting.

16.3 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. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations

17. 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.

18. Exclusion of public

Members of the public and press may only be excluded either in accordance with Rule 28 (Access to Information Rules) or Rule 20 (Disturbance by Public).

19. Members' conduct

19.1 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.

19.2 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.

19.3 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.

19.4 Disclosable Pecuniary Interest

Unless a dispensation has been granted, a member shall not participate in any discussion of, or vote on, any matter in which they have a Disclosable Pecuniary Interest and having first declared to the meeting the existence and nature of that interest shall withdraw from the room where the meeting is being held at the commencement of the consideration of that business, or (if later) the time at which the interest becomes apparent.

Where the Disclosable Pecuniary Interest is sensitive (as defined on the Member Code of Conduct of the respective Councils) the member need not disclose the nature of that interest but must still state there is a Disclosable Pecuniary Interest and otherwise follow the requirements of the previous paragraph.

19.5 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.

20. Disturbance by public

20.1 Removal of member of the public

If a member of the public interrupts proceedings or is found to be recording the proceedings of the meeting (by video or otherwise) in a manner that is disruptive to business, the Chairman will warn the person concerned. If they continue to interrupt or record the meeting contrary to the Chairman's instructions, the Chairman will order their removal from the meeting room and the forfeiture of the unauthorised recording.

20.2 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.

21. Suspension and amendment of the Rules

21.1 Suspension

All of these Rules except Rule 9.7 and 16.3 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Committee are present. Suspension can only be for the duration of the meeting.

21.2 Amendment

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

22. Motions affecting Staff

If any question arises at a meeting of the Committee to which the Local Government Act 1972 applies by virtue of Section 100(A)(4) concerning the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by Strata or the Councils, such question shall not be the subject of discussion until the Committee has decided whether or not the power of exclusion of the public under Section 100(A)(4) of the Local Government Act 1972 shall be exercised.

23. Call-in

23.1 A decision is made by the JEC but the decision does not come into effect until a Call-in period has elapsed.

23.2 Within two working days of the decision being made, the Proper Officer (which in this context means the Proper Officer of the Council whose members have exercised the power of call-in) will notify all members of the Councils of the decision. The notice

will include the date of the notification and the date the decision will come into effect if there is no Call-in. The “effective date” of the decision which will be 09.00 am on the day after the expiry of three clear working days from the notification to members (Saturdays, Sundays and Bank Holidays are excluded). For example, in respect of a decision made by the JEC on a Wednesday, notification will be given to all members by Friday of the same week and the effective date of the decision will be 09.00 am on the following Thursday.

23.3 A request for a call-in of the decision must be received by the Proper Officer between the date of notification to members and the effective date of the decision.

23.4 For the call-in to be valid, the request must satisfy all of the following provisions:-

- (i) Be in writing (on paper or e-mail);
- (ii) Specify the relevant decision that is to be the subject of the Call-in;
- (iii) Be supported by at least five members;
- (iv) Written confirmation that such members have each considered all of the following matters before requesting a call-in of the decision:
 - (a) whether the decision is likely to cause distress, harm or significant concern to a local community, or to prejudice individuals within it;
 - (b) whether the matter has been subject to consultation or debate with relevant interested parties;
 - (c) whether the delay in implementing the decision is likely to cause significant harm to the Councils or others;
 - (d) whether the decision is against an approved policy or budget provision of the Councils or Strata;
 - (e) whether the decision was made against the advice of professional staff; or
 - (f) whether the views of the members requesting the call-in were taken into account in arriving at the decision.
- (i) Stating the reasons for the call-in of the decision.

23.5 Once the Proper Officer is satisfied that the request is a valid request, they shall arrange for the JSC to consider the call-in at the next scheduled meeting or if the Proper Officer and Chairman of the JSC consider that the matter cannot wait until the next scheduled meeting, the Proper Officer shall convene a JSC as soon possible on a date which is acceptable to the Chairman of the JSC.

23.6 If having considered the decision, the JSC is still concerned about it, the Committee may refer it back to the JEC for reconsideration, setting out in writing the nature of its concerns.

23.7 If referred to the JEC, the JEC shall consider the concerns, amending the decision or not, before adopting a final decision.

Exceptions

23.8 In order to ensure that call-in is not abused, nor causes unreasonable delay certain limitations are placed on its use. These are:

- (i) only decisions involving expenditure or reductions in service over a value of £10,000 may be called in;
- (ii) If in the opinion of the Proper Officer the power of call-in is being abused with the apparent intention of unreasonably disrupting the JEC's decision making process they may refuse to accept any or all requests.

Urgent Decisions

23.9 Urgent decisions shall be excluded from the call-in process. What constitutes an urgent decision will be agreed between the Chief Executives and the Leaders and the Chairman of the JSC. The reason why the decision was urgent shall be recorded.

Referral to Councils

23.10 When considered by the JSC, the matter may be referred back to the JEC for further consideration or in exceptional circumstances, i.e. a matter of significance for the Councils affecting the strategic direction of Strata, referred to the Councils for further consideration and referral back to the JEC. Whether the matter is considered exceptional will be agreed between the Chief Executives and the Leaders and the Chairman of the JSC or if not fewer than three quarters of the JSC members consider the matter is exceptional. When considered by the Councils or the JSC, the matter will need to go back to the JEC in the form of a report with recommendations in the name of the JSC or the Chairmen of the Councils.

23.11 A matter which has been the subject of a call-in may not be the subject of a second call-in unless requested by at least one third of the total membership of a Council. In those circumstances, the matter will be referred back to the Full Council of each of the Councils. It will be subject to decision by Full Council only if it is outside of the budget or policy framework for Strata. If it falls within the budget and policy framework it will be referred back to the JEC for a decision.

24. Inspection of documents

24.1 A member of the Council may for the purposes of his duty as a member but not otherwise inspect any document that contains material relating to any business to be transacted, or which has been considered, at a meeting of the Committee. If copies are available they shall be supplied on request.

- 24.2 A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested; or has a Discloseable Pecuniary Interest within the meaning of the Code of Conduct for members.
- 24.3 This Rule shall not preclude a Chief Executive or Solicitor from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client or where it appears to the Chief Executive that a document discloses exempt information of a description set out in Section 100F(2) of the Local Government Act 1972.
- 24.4 All minutes of the Committees shall be open for the inspection of any member of the Councils during office hours.

25. Inspection of land, premises etc

A member of a Council unless authorised to do so by a Council or Committee, shall not have the right to inspect any lands or premises which the Councils have the right or duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the Councils.

26. Proceedings at meetings

- 26.1 No person shall disclose "confidential information" or "exempt information" in any circumstances. However this Rule shall not forbid disclosure of the resolution or any recommendation which has been made or other contents of the relevant minute.
- 26.2 In the event of any member disclosing such information, he/she shall be liable to investigation by their Council's Monitoring Officer and report to the Standards Committee.

27. Attendance when not a Committee Member

- 27.1 A member who has proposed a motion which has been referred to a Committee shall have notice of the meeting of the Committee at which it is proposed to consider the motion, and if he attends, shall have an opportunity of explaining it.
- 27.2 A member of the Council may attend all proceedings of the Committees.
- 27.3 A member who wishes to raise any matter appropriate to a Committee of which he is not a member, may do so by giving notice in writing to the Proper Officer of their Council at least two clear days before the next ordinary meeting of the appropriate Committee. The member may also attend a special meeting if the matter in which he is interested is to be discussed by that special meeting. Such notice shall contain particulars of the matter that they wish to raise. They shall then have the right to explain and discuss the matter.
- 27.4 Any member attending a Committee meeting of which he is not a member shall not be able to propose or second any motion nor to vote at that meeting. Except as otherwise provided in this Rule they shall not be entitled to speak at that meeting (except with the consent of the Chairman).

28. Access to Information

28.1 Additional Rights to Information

These Rules do not affect any more specific rights to information afforded by law.

28.2 Rights to Attend Meetings

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

28.3 Notices of Meeting

At least five clear days' notice will be given of any meeting by posting details of the meeting at the Councils' offices and placed on the Councils' websites.

28.4 Access to Agenda and Reports before the Meeting

The Council hosting the Committee meeting 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 and on its website. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer for the Council shall make each such report available to the public as soon as the report is completed and sent to members) will be open to inspection for the time the item was added to the agenda.

28.5 Supply of Copies

The Council hosting the meeting will supply copies of:

- (i) any agenda and reports which are open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (iii) if the Chief Executive or Monitoring Officer of the Council hosting the Committee meeting think 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.

28.6 Access to minutes etc after the meeting

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

- (i) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Committee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (ii) 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;

- (iii) the agenda for the meeting; and
- (iv) reports relating to items when the meeting was open to the public.

28.7 Background Papers

List of background papers

The proper officer of the Council hosting the Committee meeting will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.

29. Key Decisions

29.1 A "Key Decision" means a decision of the JEC which is likely:

- (a) to result in Strata or the Councils incurring expenditure which is, or the making of savings which are, significant having regard to Strata's or the Councils' budgets for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Councils' areas;

29.2 In accordance with Section 38 of the Local Government Act 2000, in determining the meaning of "significant" regard shall be had to any guidance for the time being issued by the Secretary of State

29.3 A decision taker may only make a key decision in accordance with the requirements of these Rules.

29.4 Only the JEC may take Key Decisions.

29.5 The JEC shall publish a forward plan of anticipated Key Decisions.

29.6 Notice of Key Decision

Subject to the general exception and urgency provisions below, no Key Decision may be taken unless:

- (i) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
- (ii) at least 28 clear days have elapsed since the publication of the Notice of Key Decision; and

- (iii) where the decision is to be taken at a meeting of the JEC notice of the meeting has been given in accordance with Rule 5 (notice of meetings).

29.7 Contents of Notice of Key Decision

The Notice of Key Decision will state that a key decision is to be taken by the JEC and it will describe the following particulars:

- (i) the matter in respect of which the decision is to be made;
- (ii) the date on which, or the period within which, the decision is to be made;
- (iii) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (iv) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (v) that other documents relevant to those matters may be submitted to the decision maker; and
- (vi) procedure for requesting details of those documents (if any) as they become available.

29.8 Publication of the Notice of Key Decision

The Notice of Key Decision must be made available for inspection by the public at the offices of the Relevant Council of the next JEC meeting at which the Key Decision is to be made.

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

29.10 The Forward Plan

The Councils are not required by law to publish a forward plan. However, the Notice of Key Decision published by the relevant Council set out not just details of specific key decisions, but also details of key decisions over a four month period (including important decisions to be made by the JEC).

29.11 General Exception

If a Notice of Key Decision has not been published, then subject to Rule 29.13 (special urgency), the decision may still be taken if:

- (i) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
- (ii) the Proper Officer of the relevant Council has informed the Chair of the next JSC Committee meeting the matter about which the decision is to be made;

- (iii) the Proper Officer of the relevant Council has made copies of that notice available to the public at the offices of the relevant Council and on the Councils' websites; and
- (iv) at least five clear days have elapsed since the Proper Officer complied with 29 (ii) and 29 (iii)

29.12 As soon as reasonably practicable after the Proper Officer of the relevant Council has complied with Rule 29.11, they must make available at the Councils' offices and publish on the Councils' websites the reasons why compliance with issuing a Notice of Key Decision was impractical.

29.13 Special Urgency

If by virtue of the date by which a Key Decision must be taken Rule 29.11 (general exception) cannot be followed, then the Key Decision can only be taken if the Chief Executive of the relevant Council obtains the agreement of the Chair of the next JSC Committee meeting.

29.14 As soon as reasonably practicable after the Chief Executive of the relevant Council has obtained agreement under Rule 29.13 they must make available at the Councils' offices and publish on the Councils' websites the reasons why the meeting is urgent and cannot reasonably be deferred.

This page is intentionally left blank