

# South East Devon Joint Habitat Regulations Joint Committees

## Terms of Reference and Rules of Procedure

### 1. Introduction

- 1.1 The Delegation of Functions and Rules of Procedures set out in this document regulate the proceedings of the Habitat Mitigation Executive Committee (HMEC) which was created by East Devon District Council, Exeter City Council and Teignbridge District Council as the South East Devon Habitat Regulations Joint Committee to govern delivery of mitigation measures as set out in the South East Devon European Site Mitigation Strategy and the emerging Pebblebed Heaths Visitor Management Plan.
- 1.2 The South East Devon European Site Mitigation Strategy and the emerging Pebblebed Heaths Visitor Management Plan are required to ensure timely and effective mitigation arising from new development with the potential to impact three sites of European wildlife importance, namely the;  
  
Exe Estuary Special Protection Area and Ramsar Site,  
Dawlish Warren Special Area of Conservation, and  
East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area
- 1.3 The Councils have delegated all the necessary decision making powers to enable the Habitat Mitigation Executive Committee to operate so as to deliver the identified mitigation measures.
- 1.4 In carrying out its role the Habitat Mitigation Executive Committee shall, where necessary, act as a competent authority for the purposes of the Conservation of Habitats and Species Regulations 2010.
- 1.5 East Devon District Council will be responsible for holding and administering developer contributions and community infrastructure levy receipts and to provide advice and guidance on all financial matters. Legal advice and guidance will be provided by each authority.
- 1.6 In this document the following words have the following meanings:

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

**“Committee”** means the HMEC

**“Council”** means East Devon District Council, Exeter City Council or  
Teignbridge District Council as the context so permits and together “the  
Councils”

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

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

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

APPENDIX

## **Section A – Delegation of functions**

### **1. Habitats Mitigation Executive Committee**

The Councils have appointed the HMEC which will make the operational decisions on behalf of the Councils to implement and deliver measures to mitigate against the impact of development pressures. Those decisions will be taken in accordance with a 5 year Delivery Programme and the Business Plan, both of which the HMEC shall agree at its first meeting. Thereafter the 5 year Delivery Programme shall be reviewed every 5 years and the Business Plan annually.

Other functions that are within the remit of the HMEC include:

- Monitoring the implementation and effectiveness of the mitigation measures and agree changes where necessary.
- Ensure that there is a simple and transparent audit trail linking S106 and CIL financial allocations for European site mitigation, and the works and projects that deliver mitigation. Allocate budget accordingly, taking account of other arising mitigation opportunities.
- Secure the cooperation of all stakeholders.
- Monitor risks, progress and effectiveness of delivery.
- Identify, lobby for and secure complementary funds.
- Monitor and review the delivery of the South-East Devon European Site Mitigation Strategy (and when adopted the Pebblebed Heaths Visitor Management Plan) quarterly and publish a progress report annually.
- Formally advise on any emerging requirements for refreshing the evidence base used to determine the Strategy (and when adopted the Plan).
- To include reviews of developer contribution charges in line with inflation/index linking and funding mitigation expenditure in perpetuity.
- Establish and maintain a financial model that ensures delivery of mitigation in perpetuity.
- Liaise between partner organisations and share best practice.
- Ensuring that a record is kept of planning proposals which are agreed through the planning process to satisfy their own mitigation requirements (and as such do not form part of the mitigation Strategy).

## **Section B – Rules of Procedure**

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### **1. General**

- 1.1 These Rules of Procedure (Rules) provide one set of bespoke procedural rules to govern the meetings of the Committees established to govern and scrutinise delivery of habitat mitigation as set out in the Introduction and Section A above.
- 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 in accordance with the delegated authorities given by the Councils.

### **2. Ordinary Meetings**

- 2.1 Ordinary meetings of the Committees will:
  - (i) deal with any business required by statute to be done before any other business;

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

In addition to (i) – (vii) above the HMEC shall:

- (vii) receive reports from the Delivery Officer and / or the Officer Working Group;
- (ix) consider referrals made to it by the HMSC;
- (x) receive questions on the operational matters of the HMEC from members of the Councils and members of the public and provide answers to those questions

In addition to (i) – (vii) above each authority's relevant Scrutiny Committee shall:

- (xi) receive reports on performance from the HMEC; and
- (xii) report to each Executive Committee of the Councils annually on the performance of the HMEC.

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 item (i) in this rule.

### **3. Extraordinary meetings**

#### **3.1 Calling extraordinary meetings**

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

- Any of the Executives 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
- 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 HMEC 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 the HMEC there shall be at least four meetings of the HMEC.
- 4.2 From the second year of operation, the HMEC can determine the frequency of its meetings following consideration of the HMEC's projected workload. Extraordinary meetings of the HMEC can be called in accordance with Rule 3 above.
- 4.3 Meetings shall take place at the offices of the HMEC's then Chairman;
- 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 relevant 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 HMEC will be appointed for a maximum period of 12 months rotating thereafter between the Councils. For the first year the Chair will be from East Devon District Council and then Exeter City Council and then Teignbridge District Council. Where there is more than one representative from a particular Council on a Committee the Chair will be selected from the members of that Council.
- 6.2 The Chairman does not have a casting vote.

## 7. Committee Composition

### 7.1 HMEC

The HMEC shall comprise;

- three members one from each of the Councils, each with an equal vote and shall where possible be the Portfolio Holder responsible for any of sustainable development, strategic planning, environment or similar function
- one person from each of the bodies listed below all of which shall be non-voting positions;
  - Natural England
  - Green Infrastructure Board

## **8. Quorum**

8.1 For the HMEC the quorum is the three Council members or their nominees.

8.2 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 or when the meeting becomes quorate again. 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 HMEC, a decision must be unanimous.
- 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 the HMEC, subject to Rule 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 HMEC any question without notice upon an item of the report to the HMEC 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 the HMEC 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 dispatch 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 Committee's response to motion**

The Chairman, at his discretion, may invite any member (or his nominee) or officer 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) in relation to the accuracy of the minutes;
- (b) to change the order of business in the agenda;
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a committee or member arising from an item on the summons for the meeting;
- (e) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular procedure Rule;
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (o) 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.

### **19.6 Code of Conduct**

Appointed members to the Committee remain subject to the adopted Code of Conduct of their respective Councils

## **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 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 HMEC 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 HMEC 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 comply with the respective authorities call-in procedures.
- 23.5 If referred to the HMEC, the HMEC shall consider the concerns, amending the decision or not, before adopting a final decisions.

#### Urgent Decisions

- 23.6 Urgent decisions shall be excluded from the call-in process. What constitutes an urgent decision will be agreed between the Chief Executives and the voting members of the HMEC and the Chairman of each authority's relevant Scrutiny Committee. The reason why the decision was urgent shall be recorded.

#### Referral to Councils

- 23.7 When considered by each authority's relevant Scrutiny Committee, the matter may be referred back to the HMEC for further consideration or in exceptional circumstances, i.e. a matter of significance for the Councils affecting the strategic importance of habitat mitigation, referred to the Councils for further consideration and referral back to the HMEC. Whether the matter is considered exceptional will be agreed between the Chief Executives and the voting members of the HMEC and the Chairman of each authority's relevant Scrutiny Committee. When considered by the Councils, the matter will need to go back to the HMEC in the form of a report with recommendations Chairmen of each of the Council's relevant Scrutiny Committee.

#### Limit on number of call-ins

- 23.8 A matter which has been the subject of a call-in may not be the subject of a second call-in.

## **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 Disclosable 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 HMEC which is likely:

- (a) to result in the Committee or the Councils incurring expenditure which is, or the making of savings which are, significant having regard to the Committee’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 any of 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 HMEC may take Key Decisions.

29.5 The HMEC 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 HMEC 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 HMEC 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 HMEC 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 HMEC).

### 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 relevant Scrutiny 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 Scrutiny Committee meeting of the relevant authority.

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.