

Structural & Procedural Review Sub-Committee 15 November 2001

Minutes of the meeting of the **Structural & Procedural Review Sub-Committee** held on **15 November 2001** when there were present:

Cllr R E Vingoe – Chairman

Cllr R F R Adams
Cllr T G Cutmore
Cllr D R Helson
Cllr G A Mockford

Cllr C R Morgan
Cllr P F A Webster
Cllr Mrs M A Weir

OFFICERS PRESENT

R J Honey - Corporate Director (Law, Planning & Administration)
R Crofts - Corporate Director (Finance & External Services)
J Bostock - Principal Committee Administrator

84 MINUTES

The Minutes of the meeting held on 16 October 2001 were approved as a correct record and signed by the Chairman.

85 MODERNISING AGENDA – AMENDMENT TO CURRENT STANDING ORDER 27 AND REVISED SCHEME OF DELEGATION/RULES OF PROCEDURE

The Sub-Committee considered the report of the Chief Executive outlining further matters to be considered as part of the new political structure.

The Corporate Director (Law, Planning & Administration) advised that, notwithstanding information received from the Standards Board relating to Standards Committees and the Model Code of Conduct (which would be circulated to all Members of the Council), there had been no further guidance received from the Government associated with the Council's revised political structure submission.

It was a requirement of the Local Authority Standing Order (England) Regulations 2001 coming into effect on 7 November to make appropriate revision to current Standing Order 27 (Disciplinary Action) to provide for inclusion of the Monitoring Officer and Chief Finance Officer as well as the Head of Paid Service.

It was noted that consideration would be given to budget and policy framework rules and the operation of overview and scrutiny at the next meeting of the Sub-Committee and that officers were continuing to work on other documentation, such as financial regulations and contract standing orders.

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Members accepted the Corporate Director's view that it would be appropriate for the scheme of delegation to be subject to early review by an Overview and Scrutiny Committee in relation to its operation within the revised political structure.

The Sub-Committee then undertook a detailed review of the proposed rules of procedure, which were based on model rules with amendment to cover current practices at Rochford. It was noted that there could be future possibilities for the electronic delivery of summons.

RECOMMENDED

- (1) That current Standing Order 27 be revised to read as follows:-

SO27 (1) No disciplinary action in respect of the head of the authority's paid service (unless he is also a council manager of the authority), its monitoring officer or its chief finance officer, except action described in paragraph 2, may be taken by the authority, or by a committee, a sub-committee, a Joint committee on which the authority is represented, or any other person acting on behalf of the authority, other than in accordance with the recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulation 2001 (investigation of alleged misconduct).

SO27 (2) The action mentioned in paragraph 1 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

- (2) That the Scheme of Delegation in its present form, including all current delegations, be adopted subject to provision for the Head of Planning Services as well as the Head of Legal Services to exercise authority delegated to the Corporate Director (Law, Planning and Administration) in his absence.
- (3) That the Rules of Procedure and Access to Information Procedure Rules, as set out at Appendices 1 and 2 to these Minutes be adopted. (CD(LPA))

86 PROCUREMENT STRATEGY

The Sub-Committee considered the report of the Corporate Director (Finance & External Services) setting out a proposed procurement strategy for the Authority.

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RECOMMENDED

That the Draft Procurement Strategy set out at Appendix 3 to these Minutes be adopted. (CD(F&ES))

87 ADVISERS TO WORKING GROUPS

The Sub-Committee considered the report of the Corporate Director (Law, Planning & Administration) on the decision of Full Council that a view be determined in respect of advisers to the Council's Working Groups.

Responding to questions, the Corporate Director (Law, Planning & Administration) advised that:-

- Officers could report further should Members wish to consider the possibilities for opening up meetings of Working Groups to the public.
- There is a common law rule of confidentiality which binds advisers if the term 'Not for public circulation' is used on documentation.

During debate it was noted that Working Groups can meet without advisers being present.

RECOMMENDED

- (1) That Working Group protocol be adjusted to provide that, as a condition of appointment, advisers must agree to declare any pecuniary or non-pecuniary interests they may have in connection with the business of the meeting and abide by rules of confidentiality.
- (2) That all Working Group paperwork is to be treated in confidence pending formal report to Council or a Committee unless already in the public domain.
- (3) That officers present a further report to this Subcommittee on public access to Working Groups. (CD(LP&A))

88 COMMITTEE TIMETABLE

The Sub-Committee considered a timetable based on the current Committee structure to cover the period 1 January to 28 February 2002.

RECOMMENDED

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[That the timetable as attached at Appendix 4 to these Minutes, be approved.](#)

The Meeting closed at 9.25 pm.

Chairman

Date

RULES OF PROCEDURE

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the chairman of Council is not present;
- (ii) elect the chairman of Council;
- (iii) elect the vice chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the chairman and/or head of the paid service;
- (vi) elect the leader or spokesman;
- (vii) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate.
- (viii) Agree the scheme of delegation (as set out in Part 3 of this Constitution);
- (ix) Approve a programme of ordinary meetings of the Council for the year: and
- (x) Consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the council meeting will:

- (i) decide which committees to establish for the municipal year;

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- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the chairman and vice chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the chairman, leader or head of paid service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the Council's committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting and reports of the overview and scrutiny committees for debate.

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3 EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- ii) the chairman of the Council;
- iii) the monitoring officer: and
- iv) any five members of the Council if they have signed a requisition presented to the chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1 Substitute Members may be nominated for each Committee by each political group represented on the committee and shall comprise a number no greater than the number equal to the number of ordinary Members nominated for a political group to that Committee.

4.2 A substitute member attending a Meeting of a Committee, or Sub-Committee, has the same powers and responsibilities as a full Member of the Committee or Sub-Committee.

4.3 A Member or substitute Member first in attendance at a Meeting of a Committee or Sub-Committee cannot be substituted or replaced during the course of that Meeting.

4.4 A list of substitutes nominated in accordance with Rule 4.1 should be supplied to the Proper Officer at any time up to the commencement of the Meeting to which it relates and substitutions shall be made by the political group in order of precedence so that when a substitution is made the Member in attendance at the Meeting and highest on the list of substitutes will be the next substitute for his/her political group.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the proper officer and notified in the summons.

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6. NOTICE OF AND SUMMONS TO MEETINGS

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

7. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the chairman. Where these rules apply to committee and sub-committee meetings, references to the chairman also include the chairman of the committees and sub-committees.

8. QUORUM

- 8.1. The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 8.2. A meeting of the Standards Committee shall not be quorate unless at least 3 members (including at least 1 independent member unless prevented or restricted from participating by virtue of the Code of Conduct) are present for the duration of the meeting

9. DURATION OF MEETING

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

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10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask questions of the leader of the council and any chairman of a policy committee at ordinary meetings of the Council.

10.2 Order of questions

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

10.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the proper officer no later than midday 7 days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

10.4 Number of questions

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

10.5 Scope of questions

The proper officer may reject a question if it:

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

10.6 Record of questions

The proper officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

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

10.7 Asking the question at the meeting

The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question.

A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 Written answers

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

10.10 Reference of question to a committee

Unless the chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

11. QUESTIONS BY MEMBERS

11.1 On Reports of Committee

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

11.2 Questions on notice at full Council

Subject to Rule 11.4, a member of the Council may ask:

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- The chairman
- The leader or
- The chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the district.

11.3 Questions to notice at committees and sub-committees

Subject to Rule 11.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that committee or sub-committee.

11.4 Notice of questions

A member may only ask a question under Rule 11.2 or 11.3 if either:

- (a) they have given at least 5 working days notice in writing of the question to the proper officer: or
- (b) 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 midday on the day of the meeting.

11.5 Response

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

11.6 Supplementary questions

A member asking a question under Rule 11.2 or 11.3 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.

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12. MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, on the authority of at least 2 members, must be delivered to the proper officer not later than 5 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 Scope

Motions must be about matters for which the Council has a responsibility or which affect the district.

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 reduce the time allowed for speeches under rule 14.4
- (e) to refer something to an appropriate body or individual:
- (f) to appoint a committee or member arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them:
- (h) to withdraw a motion;
- (i) to amend a motion;
- (j) to proceed to the next business;

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- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 3 hours in duration
- (o) to suspend a particular council procedure rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

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, to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the chairman. Before commencement of the main business, a meeting may agree by a majority vote to a lesser time.

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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.

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- (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 which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

14.8 Withdrawal of motion

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

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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

14.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;

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- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4

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 and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

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 any alleged

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breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the chairman on the matter will be final.

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

15 PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 8 members.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 10 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16 VOTING

16.1 Majority

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

16.2 Chairman's casting vote

If there are equal numbers of votes for and against, the chairman will have a second or casting vote provided he or she has already exercised a substantive vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

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16.3 Show of hands

Unless a recorded vote is demanded under Rules 16.4, the chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

16.4 Recorded vote

If one-fifth of the members present at the meeting and entitled to vote stand to demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

16.5 Right to require individual vote to be recorded

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

16.6 Voting on appointments

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

17. MINUTES

17.1 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.

17.2 No requirement to sign minutes of previous meeting at extraordinary meeting

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

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17.3 Form of minutes

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

18. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting will be recorded by the Committee Administrator.

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to speak

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

20.2 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.

20.3 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. The motion will be voted on without discussion.

20.4 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. The motion will be voted on without discussion.

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20.5 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 fit.

21 DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

If a member of the public interrupts proceedings, the chairman will warn the person concerned. If they continue to interrupt, the chairman will order their removal from the meeting room.

21.2 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.

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All of these Council Rules of Procedure except this Rule and Rule 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

22.2 Amendment

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

23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 4-9, 11-23 (but not Rule 20.1) apply to meetings of committees and sub-committees.

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), policy and other committees and the Standards Committee (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The council will give at least three clear days notice of any meeting by posting details of the meeting at the Council Offices, Rochford and Civic Suite, Rayleigh the designated offices.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated offices at least three clear days before the meeting. 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 shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;

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- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer 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:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) 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 (as defined in Rule 10).

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8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council Offices, Rochford and Rayleigh.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following 15 categories (subject to any condition):

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CATEGORY	CONDITION
<p>1. Information relating to a particular employee, former employee or application to become an employee of, or a particular office-holder, former office holder or applicant to become an office-holder under, the authority.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office holder or applicant to become an office-holder under, a magistrates' court committee or probation committee</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority</p> <p>4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p> <p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description .i.e it must relate to and be recognisable as referring to a particular individual in</p>

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CATEGORY	CONDITION
	the roles indicated
6 Information relating to the adoption, care, fostering or education of any particular child	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of section 31 Children Act 1989
7 Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable
8 The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons.
9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information within paragraph 9 is only exempt if, and for so long as disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it)
10 The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as	For the purposes of this paragraph "tender" includes a DLO/DSO written bid

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CATEGORY	CONDITION
<p>the person offering any particular tender for a contract for the supply of goods or services</p>	
<p>11 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority</p>	<p>Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter</p> <p>“Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute</p>
<p>12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceeds) and any advice received, information obtained or action to be taken in connection with:</p> <p>(a) any legal proceedings by or against the authority; or (b) the determination of any matter affecting the authority; whether, in either case, proceedings have been commenced or are in contemplation</p>	
<p>13 Information which, if disclosed to the public, would reveal that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p>	<p>Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction</p>

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CATEGORY	CONDITION
(b) to make an order or direction under any enactment	is to be given or made
14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	
15 The identity of a protected informant	<p>A "protected informant" means a person giving the authority information which tends to show that</p> <ul style="list-style-type: none"> (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance, <p>has been, or is being, or is about to be committed</p>

Information falling within any of paragraphs 1 – 15 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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



ROCHFORD DISTRICT COUNCIL

DRAFT PROCUREMENT STRATEGY

OCTOBER 2001

Rochford District Council,
Council Offices,
South Street,
ROCHFORD,
Essex, SS4 1BW.

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1. Introduction and Background

- 1.1. In order to comply with the requirements of the Best Value regime, it is necessary for the Council to adopt a Procurement Strategy that states its approach to the procurement of goods and services.
- 1.2. At present, the gross expenditure of the Council, excluding benefit, can be summarised as follows:-

	£m
Salary related	6.2
Utilities, etc.	0.7
Supplies and services	1.3
Contracts	<u>5.1</u>
TOTAL	<u>13.3</u>

- 1.3. The strategy is designed to inform Members and officers of the Council's policy once decisions have been taken to procure goods and services. As goods are usually "bought in", much of the strategy focuses on service procurement. The document informs those responsible for purchasing goods or providing services of the processes that the Council requires them to follow when choosing supplies and deciding how to deliver services. In respect of services, the key decision is the degree to which a service is delivered in-house by employees or bought in from another organisation.
- 1.4. This strategy applies to all areas of procurement including e-government. As the Government has placed a target on all local authorities to be able to provide 100% of services electronically by 2005, it is envisaged that more regular updates will be required in this area.

2. Procurement Policy

- 2.1. This Procurement Policy should be read in conjunction with the Council's Financial Procedures and Contract Standing Orders. The Council emphasises its ongoing commitment to:-
 - Non-discrimination
 - Equality of opportunity
 - Balance the needs between the client and the service provider
 - Allow service providers to be innovative
 - Write the appropriate level of quality and time constraints into specifications
 - Have a written policy on the evaluation of tenders.

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- 2.2. Rules and regulations to protect the Council's position when purchasing goods and services are detailed in the Council's Standing Orders and Financial Procedures.

3. Procurement Methods

- 3.1. The Council recognises four broad options for service delivery. These are listed below with examples and key characteristics.

(a) In-house Provision

Example – Council Tax Collection

- Uses directly employed staff
- Has limited dependence on outside suppliers
- Has a high dependency on the Council's support services and infrastructure.

(b) Partnership Arrangements

Example – Basildon out of hours service

- Either commissioning joint provision with other authorities or agents

Or

- Acting as provider with any other local authority or body
- Can use directly employed staff
- There may be a high dependency on the Council's support services and infrastructure
- Can achieve economies of scale

(c) Contracted out Provision

Example – Refuse Collection

- Using private companies, trusts, voluntary bodies, etc., each with its own corporate objectives
- Limited in-house client provision
- Reduced need for support services and infrastructure.

(d) Externalised Service

An example would be the setting up of a trust to run a service.

- Council loses operational responsibilities and control

3.2. Officers may consider and make recommendations on the use of specific forms of external procurement, such as Private Finance Initiative (PFI), Public Procurement Partnerships (PPP) (eg., proposed leisure services contract) or local authority companies or trusts, if and when projects arise which may benefit from such approaches.

4. Guiding Principles

4.1. In procuring goods and services, the authority must have regard to the following:-

- The Council acknowledges that there are strengths and weaknesses associated with service delivery by all types or organisation (private and voluntary sector, partnerships and direct employment of staff) and in general has no strong preference for any type. Many key services are currently provided by the private sector. This does mean that any future proposals to outsource services must address the issues of core number of staff required by the authority.
- The Council values the contribution made by existing staff and has no desire to externalise services currently provided in-house, provided that it can be demonstrated that performance, both in terms of quality and cost, is equal to the best on offer in local government nationally and by the private sector (subject to availability of relevant performance indicators).

5. Sustainability

5.1. In the context of this document, sustainability concerns the ability of the organisation to continue to deliver value for money services following changes in the way goods or services are provided. All moves away from in-house provision must address the issues of:

Use of office space vacated
Ownership of records
Monitoring of service
Impact on support services, etc.
Strength of alternative supplier

- 5.2. Each time a procurement decision is likely to lead to a major change to the organisation, the sustainability issues, detailed in Appendix 1, should be identified and evaluated. The list is not exhaustive and merely provides summary headings under which other relevant issues may be identified. Furthermore, not all of the sustainability issues will be relevant to every procurement decision.

6. Triggers to Alternative Procurement Routes

- 6.1. The consideration of procurement will be brought into action when one of the following key events occurs within a defined service:-
- An assessment by a Best Value Review Team that the service should not be provided in-house
 - Failure to achieve previously agreed performance targets and standards
 - The end of a service contract
 - Major service expansion or reduction
 - A fundamental restructuring or repositioning of a service due to negative factors such as major failure or changes in key personnel
 - Major project work.

7. Choosing the Right Method of Delivery

- 7.1. It is recognised that no service exists which is provided exclusively in-house or externally. All in-house services require basic supplies to be bought in for use by staff. All external contracts require an in-house client role to monitor the external service, no matter how small. The question regarding choice of procurement is, therefore, not a simple one of in-house versus external supplier, but to what degree should the service in question be provided in-house or externally.

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- 7.2. In determining the answer to this question, any review of delivery method should undertake an analysis of costs and benefits for each option which considers the following:-
- The effect on the organisation (eg., retaining an operationally effective corporate core of support services and the minimum level of staff required by the authority to respond to emergencies, elections, etc.)
 - The capacity of the option to deliver a specific guarantee of quality
 - The opportunity for price reductions and economies of scale through externalisation or joint working
 - The current state of any external market including the range of service providers available.
 - The degree of risk involved in externalising a service or, indeed, of keeping it in-house
 - The opportunity for partnership arrangements
 - The impact a poorly provided service would have on the Council's public image
 - The need for specialists, expertise and capital
 - The need for probity and public accountability
 - Any potential added value offered by choosing a particular method of supply
 - Possible transfer costs and future monitoring costs
 - Residual costs, redundancy costs
 - The views of service recipients/users
 - Short or long term service delivery
 - Sustainability issues (See Section 5 above).
- 7.3. Where there is no viable alternative to in-house service provision, then an appropriate internal route to service improvement should be recommended.

8. Contract Periods

8.1. Contract periods should be of sufficient length to allow the service provider suitable scope to recoup the cost of the tendering exercise, set up costs incurred, amortise capital costs and earn a reasonable element of profit. The Best Value process should be used to determine the optimum contract term. Contracts may also contain clauses for limited extensions to the term subject to good performance being demonstrated by the contractor. The contract, if in excess of five years, must provide for Best Value review exercises to take place.

9. Letting an External Contract

9.1. In the event that a service is to be procured externally, then the Council requires all officers to follow European Procurement Directives, the Council's Contract Standing Orders and Financial Regulations. These place probity and accountability at the heart of the decision making process. As noted in 8.1. above, provision needs to be made for Best Value reviews for contracts in excess of five years. In shorter term contracts, it would be prudent to add clauses for contractors to provide limited assistance on relevant Best Value reviews.

9.2. The process nonetheless permits some degree of flexibility to benefit the procurement process and ensure that quality issues are considered alongside price issues. Full documentation must be developed in consultation with the Head of Legal Services on each occasion procurement takes place and should provide a complete audit and management trail available for review and/or inspection.

10. In-House Provision

10.1. All proposals to procure goods and services, which may result in increased numbers of staff, must, when being presented to Members, include information on the issues set out below:-

- office accommodation
- access to IT systems
- staff terms and conditions
- impact on corporate support services.

11. Monitoring and Review of the Procurement Strategy

11.1. Internal Audit should annually check compliance with the Procurement Strategy, focussing on the following issues:-

- Were all alternative procurement routes adequately considered once an event had triggered the imposition of the Procurement Strategy on a service?
- When external routes were selected, did officers follow procedures appropriate to the use and scope of procurement?
- In determining the appropriate route, did officers pay due consideration to the statements made by Managers responsible for support services?

11.2. The strategy document will be reviewed annually and responsibility is as follows:-

- To agree the strategy along with any future amendments – **Policy and Finance Committee.**
- To ensure compliance with the strategy and report non-compliance to the Policy and Finance Scrutiny Committee – **Chief Executive.**
- To produce the strategy and propose amendments as appropriate – **Corporate Director (Finance and External Services).**

SUSTAINABILITY ISSUES

(SUMMARY)

The effect on the local community

The use of assets (eg., land and buildings)

Managing the environment and resources

Health for employees and the local community

Effect on the local economy

Housing

Transport

Leisure

Social equity and opportunity.

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APPENDIX 4

CYCLE OF MEETINGS: JANUARY – FEBRUARY 2002

	JANUARY	FEBRUARY
Monday		
Tuesday	1 Bank Holiday	
Wednesday	2 Environmental Health Sub-Committee	
Thursday	3 Planning Policy Sub-Committee	
Friday	4	1
Monday	7	4
Tuesday	8 Leisure Sub-Committee	5 Community Services Committee
Wednesday	9 Transportation Sub-Committee	6 Corporate Resources Sub-Committee
Thursday	10 Planning Services Committee	7 Member Budget Monitoring Sub-Committee
Friday	11	8
Monday	14	11
Tuesday	15 Community Safety Sub-Committee	12
Wednesday	16 Member Budget Monitoring Sub-Committee	13
Thursday	17 Partnership Sub-Committee	14 Finance & General Purposes Committee
Friday	18	15
Monday	21	18
Tuesday	22 Council (Budget)	19 Council (Council Tax)
Wednesday	23 Housing Management Sub-Committee	20
Thursday	24 Contracts Sub-Committee	21 Planning Services Committee
Friday	25	22
Monday	28	25

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Tuesday	29 Structural & Procedural Review Sub-Committee	26 Council
Wednesday	30 Transportation & Environmental Services Committee	27
Thursday	31 Audit Services Committee	28
Friday		