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PART 3B – EXECUTIVE PROCEDURE RULES

1 Application of these Rules

- 1.1 These Rules apply to meetings open to all Members of the Executive including when meeting as the Cabinet, except where otherwise indicated.

2 Executive Decisions

- 2.1 Executive functions may be exercised by:
- a) the Executive as a whole;
 - b) an individual Member of the Executive;
 - c) an officer;
 - d) an arrangement with another authority for the discharge of functions.

Key Decisions to be taken collectively by the Executive

- 2.2 All Key Decisions will be taken by the Executive, normally collectively, at a Cabinet meeting.
- 2.3 No individual member of the Executive may make a Key Decision except for the Leader pursuant to para 2.1 of the Appendix to this Part or (under Temporary Arrangements, as outlined in the Appendix) one of their Deputies in their stead.
- 2.4 In any instances where the Leader/one of their Deputies makes a Key Decision then their decision shall be published on the Council's website

Definition of Executive Meeting

- 2.5 An Executive meeting shall be defined as a meeting open to all Members of the Executive. It may be described as a Cabinet meeting, just as Members of the Executive are also referred to as Members of Cabinet.

3 Delegation to the Executive

- 3.1 The Leader or, in the absence of the Leader, one of their Deputies, will present annually to the Council a list ('the List') comprised of the individual members appointed to the Executive alongside details of the delegations they have given those Executive Members in relation to the functions for which they have responsibility (including the power to make non-Key Decisions). The List shall be in tabular form and will be published in the Allocation of Responsibility for Functions: Cabinet, which forms Part 2E of the Constitution).
- 3.2 Changes to the members in the List nominated to Executive roles may be made by the Leader with immediate effect in-year, whereupon an updated List shall be presented to the next meeting of the Council and published thereafter in the Constitution at Part 2E.
- 3.3 The List presented to annual Council by the Leader or, in the absence of the Leader, one of the two Deputy Leaders, will include the following information relating to Executive functions in the ensuing Municipal Year:

- a) the name of the Executive Member who will serve as Deputy Leader;
- b) the names and Wards of the councillors appointed to the Executive;
- c) the nature of the Portfolios to be held by each Executive Member;
- d) the extent of any authority delegated to those Executive Members individually, including details of the limitation on their authority;
- e) the nature and extent of any deputising arrangements within the Executive;
- f) any changes to the terms of reference and constitution of the Executive.

3.4 In an election year the above information may be presented by the Leader or, in the absence of the Leader, the Deputy Leader to the first appropriate Council meeting. This may be a special meeting convened for the purpose.

4 Allocation of Responsibility for Functions: Cabinet

4.1 The List included in the Allocation of Responsibility for Functions: Cabinet will remain in force once presented to Council by the Leader until superseded or revoked by them. Any changes to individual members appointed to Executive roles made subsequently by the Leader shall take immediate effect. They shall be presented to the following meeting of Council, whereupon the published List will be updated.

5 Conflicts of Interest

5.1 Where any individual Member of the Executive has a conflict of interest, this shall be dealt with having regard to the Council's Code of Conduct for Members, which forms Part 4D of this Constitution.

5.2 If a conflict of interest arises in relation to the Leader or Deputy Leader in a situation where the decision would have been referred to them, then that decision may be referred to Cabinet.

6 Key Decisions subject to Call-in

6.1 All Key Decisions, whether taken at a meeting of the Executive or by the Council's Leader pursuant to paras 2.2 and 2.3 above and the Appendix to this Part, are subject to the provisions on Call-In in the Overview & Scrutiny Procedure Rules which form Part 3C1 of this Constitution.

7 Executive Meetings

Procedure for Decision Making by the Executive

7.1 Executive decisions taken by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules which form Part 3E of this Constitution.

8 Ordinary Meetings

8.1 The Executive will meet at the time and place published on the agenda.

8.2 The Leader or, in the absence of the Leader, either of the two Deputy Leaders, may convene additional meetings of the Executive, provided that the requirements of the

Access to Information Procedure Rules which form Part 3E of this Constitution are complied with.

- 8.3 The date and time of a meeting of the Executive may be changed by the Leader or, in the absence of the Leader, one of her Deputies, upon giving five clear working days' notice. In urgent situations, the meeting may be cancelled by the Leader or the Head of Democratic Services, with a shorter notice period.

9 **Special Meetings**

- 9.1 Those listed below may request the Head of Democratic Services to call Executive meetings in addition to ordinary scheduled meetings:

- a) the Executive by resolution;
- b) the Leader of the Council; the Chief Executive, the Monitoring Officer (where the proper officer is not also the Monitoring Officer); or the Chief Financial Officer.

- 9.2 The date, time and place of special meetings will be set by the Head of Democratic Services.

- 9.3 Business at special meetings of the Executive shall be restricted to any item of business specified by the Executive, Leader, Chief Executive, Monitoring Officer or Chief Financial Officer when calling the meeting.

- 9.4 Business at the special meeting may be added to the agenda subject to the agreement of the Monitoring Officer following consultation with the Leader of the Council and the leader(s) of the Opposition Group(s), stating reasons for urgency.

Notice of Meetings

- 9.5 The Head of Democratic Services must give public notice of the time and place of a public meeting by displaying it at the offices of the relevant local authority and publishing it on that authority's website at least 5 clear days before the meeting or, where the meeting is convened at shorter notice, at the time the meeting is convened.

- 9.6 Where a meeting is convened at short notice, no item of business shall be considered unless a copy of the agenda including the item of business has been available for inspection by the public from the time that the agenda for the meeting was sent to members.

10 **Urgent Business**

- 10.1 Urgent business may only be considered at an Executive meeting where:
- a) the Access to Information Procedure Rules in this Constitution have been complied with; or
 - b) a Member of the Executive or any Statutory Officer has requested that an item is placed on the agenda for the meeting at any time before the start of the meeting and the Executive agrees to the item being included on the grounds of urgency. The grounds of urgency and the circumstances giving rise to the request must be recorded in the minutes of the meeting.

- 10.2 In addition, provision exists in the Appendix to these Rules for Executive decisions to be taken either by the Leader (in relation to any Executive decision, pursuant to para 1.2 of the Appendix) or by an individual member of the Executive (in relation to non-Key decisions only, in situations where they have delegated authority, pursuant to para 1.4 of the Appendix).

11 Meetings of the Executive to be held in Public

- 11.1 All meetings of the Executive will be held in public and will be governed by the Access to Information Procedure Rules in this Constitution. Where the Executive is considering reports on matters which contain confidential or exempt information it may pass a resolution to exclude the press and public in accordance with the Access to Information Procedure Rules, having given 28 clear calendar days' notice of the intention to hold a private meeting (or part private).

12 Quorum

- 12.1 Subject to Rule 12.2, the quorum for a meeting of the Executive shall be a minimum of five.
- 12.2 In order for an Executive meeting to be quorate, then either the Leader or one of their Deputies must be present unless both of them are precluded from participating in the item of business by reason of a conflict of interest, in which case the meeting shall elect a Chair.

13 Chairing & Conduct of Executive Meetings

Chair of the Executive

- 13.1 At a meeting of the whole Executive, the Leader shall preside if they are present. In the absence of the Leader, one of the Deputy Leaders shall preside if present.

Conduct of Executive Meetings

- 13.2 The person Chairing any Executive Meeting shall regulate proceedings in such a way as to ensure the smooth running of the meeting and the effective discharge of the Council's business. The exercise of their discretion as well as their ruling on the interpretation of these Rules shall not be challenged.

14 Public Engagement: Public Questions, Petitions and Deputations

Public Questions

General

- 14.1 A period of up to 30 minutes in total shall be made available at each meeting of the Executive for public questions.
- 14.2 Questions from members of the public which do not exceed 150 words in length should be submitted in writing to the Head of Democratic Services no later than 12 noon on the second working day after publication of the agenda.

- 14.3 Any questions submitted after the relevant deadline will not be considered. All questions must relate to an item of business on the agenda and must specify which item that is.
- 14.4 Questions will be answered by the Leader in the meeting in order of receipt, except that the Leader may group together similar questions. The question shall be put and answered without discussion.
- 14.5 Questions will be published prior to the meeting. Any additional questions received will be not be accepted.
- 14.6 Members of the public submitting questions may send a substitute to ask their question if they are unable to attend the meeting. The Head of Democratic Services should be made aware of this prior to the meeting commencing.
- 14.7 Any questions that are not answered at the meeting will be given a written response at the discretion of the Leader.
- 14.8 Cabinet agendas are published on the Council's website five clear working days prior to the meeting.

Priority accorded to public questions

- 14.9 No questioner may submit more than one question to any meeting. Priority will in any case be given to questions asked by members of the public who have not asked a question at any meeting of any Council body in the previous six months.

Petitions

- 14.10 A period of up to 15 minutes in total shall be made available at each meeting of the Executive for Petitions submitted either by members of the public or by members in accordance with the Council's Petition scheme which forms Part 3F of the Constitution. It provides amongst other things as follows:
- Any Member of the Council or a member of the public may present to a meeting of the Executive a Petition which has been submitted in accordance with the Authority's Petition Scheme.
 - All Petitions that Members or the public wish to present shall be referred to Democratic Services no less than ten working days in advance of the relevant meeting.
 - The presentation of each Petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the Petition and indicating the number and description of the signatories.
- 14.11 While the deadline for submitting a Petition shall be at least 10 working days prior to the relevant meeting, the Leader or person presiding shall have the discretion to take a late Petition if it relates to an officer Report which is before the meeting for consideration.

Action Following Petitions

- 14.12 The Member of the Council or member of the public presenting the Petition ('the petitioner') shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in accordance with the requirements of the Council's Petitions Scheme.

- 14.13 A qualifying Petition which meets the threshold of 1250 or more signatures may be referred for debate at a full Council meeting if the petitioner so wishes. This process is set out in the Council Procedure Rules.
- 14.14 Where a Petition is referred to Cabinet, a decision may be taken on it at the meeting at which it is presented or at a later meeting.
- 14.15 In deciding how to respond to the Petition, the meeting may decide:-
- To take the action the petition requests;
 - Not to take the action the petition requests for reasons stated;
 - To commission further investigation into the matter prior to consideration at a future meeting;
 - To refer the petition to a different relevant Council body, with recommendations.
 - To note the Petition.

Deputations

- 14.16 A period of up to fifteen minutes shall be allowed at each meeting of the Executive for the hearing of Deputations from members of the public.
- 14.17 A Deputation shall be heard provided that by no later than 10am on the eighth working day before the relevant meeting:
- (a) notice has been given to the Chief Executive which complies with paragraphs (b) to (d) below;
 - (b) the subject matter and substance of the Deputation is notified in writing in the form of a written summary. A Deputation shall not exceed one side of A4 in length. Accompanying material may be supplied and should comprise no more than 2 sides of A4 paper;
 - (c) the names, addresses and organisation (if any) of the persons forming the Deputation are provided, this being a minimum of five and a maximum of twelve people. Which one person is to speak should be notified at the same time in writing (note - the addresses of those persons forming the Deputation will not be published by the Council, but details of the ward(s) in which they are located will be circulated to the Council meeting);
 - (d) A person forming the Deputation must not be presenting a Petition or Question on the same, or substantially the same, issue at the same meeting.

Time Allocated for Presentation

- 14.18 Each Deputation may be heard for a maximum of five minutes following which one Member of the Executive, nominated by the Leader, may speak in response. It shall then be moved by the Leader that the depute be thanked for attending and the Deputation noted and voted on without discussion.

Action Following Deputation

- 14.19 The persons forming the Deputation shall be invited to attend the meeting at which it is considered, and shall be informed subsequently of any action taken or proposed in relation to the matters set out in the Deputation.

Deputations and Petitions considered by either the Executive or full Council

- 14.20 Depending on the function referred to in the Deputation or Petition and whether it is a matter for the Executive or for full Council or one of its Committees, Deputations and Petitions shall normally be considered by one or the other (and not both).

15 Member Questions and Opposition Representations

Questions by Members

- 15.1 A maximum period of fifteen minutes in total shall be made available at each meeting of the Executive for questions from Members of the Council. If a Member of the Council wishes to ask a written question at a meeting of the Cabinet of: (a) the Leader of the Council, or (b) a Cabinet portfolio holder, they shall give notice in writing by submitting their written question to the Chief Executive by no later than 12 noon on the second working day after publication of the agenda of the meeting.

Length of Questions

- 15.2 All Member Questions are subject to a 150 word limit.

List of Questions

- 15.3 A list of the written questions of which notice has been given shall be circulated to Members of the Cabinet at, or before, the meeting at which they are to be asked.

Answers

- 15.4 The questions included on the list of questions referred to above shall be taken as read at the Cabinet meeting. The question will be answered either orally or at the discretion of the Chair by a written answer circulated after the meeting. No supplementary questions shall be permitted.

Representations by Opposition Group Leaders

- 15.5 A maximum period of fifteen minutes in total shall be made available at each meeting of the Executive at which any of the Opposition Group Leaders (or their nominated representative for that meeting) may make representations on any item which is listed on the agenda for the meeting, provided that they have notified the Head of Democratic Services of the items they wish to make a representation on no later than 12noon on the second working day after publication of the agenda.

- 15.6 The available time for Representations shall be divided so as to permit a total of 5 representations by Opposition Group Leaders lasting no longer than 3 minutes each at any meeting. The split between the Opposition Groups shall be as follows: 2 Green, 2 Conservative; 1 Brighton & Hove Independent Group.

Leader's discretion to permit any person to speak

- 15.7 The provision for members and members of the public to ask a question and/or make representations as outlined are without prejudice to the Leader's discretion to permit any person they see fit to attend and speak at any meeting of the Executive.

The 6 Month Rule

- 15.8 No Deputation, Petition or Public Question shall be accepted within 6 months after a Deputation, Petition or Public Question has been considered by any Council body on the same or substantially the same subject.

Rejection of Public Questions, Petitions and Deputations, and Member Questions

- 15.9 The Chief Executive or Leader may reject a Petition, Deputation, Public or Member Question if, following consultation with the Monitoring Officer, it is in their opinion:
- a) not about a matter for which the Authority has a responsibility or which affects Brighton & Hove;
 - b) would risk defamation of an individual or is frivolous or offensive; or otherwise improper;
 - c) defamatory, frivolous or vexatious;
 - d) requires the disclosure of confidential or exempt information;
 - e) from a member of staff on matters affecting them as employees; or
 - f) otherwise inappropriate
 - g) If the Chief Executive or Leader rejects a Public question, Petition or Deputation or Member Question, then their decision is final.

16 The Business of Meetings

- 16.1 At each meeting of the Executive, the following business will be conducted:
- Apologies
 - Approving the minutes of the last meeting;
 - Declarations of interest and any dispensations granted by the Monitoring Officer
 - Petitions, Deputations and Questions, with public input taking precedence by custom and practice, including any responses to the same;
 - Matters referred to the Executive (whether by Overview and Scrutiny or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution.
 - Consideration of reports from the Overview and Scrutiny Committees;
 - Consideration of proposals for the budget and policy framework, prior to making decisions on them;
 - Consideration of the Forward Plan;
 - Other matters set out in the agenda for the meeting, which shall indicate which are Key Decisions in accordance with the Access to Information Procedure Rules set out in Part 3 of this Constitution.
- 16.2 All meetings of the Executive shall be conducted at the discretion of the person chairing it, who may regulate or vary proceedings at their discretion to ensure the effective transaction of business.

Decisions to be taken only on a report

- 16.3 The Executive may only take a decision upon consideration of a written report which includes the legal and financial implications of any proposals explored.

Consultation

- 16.4 Where reports to the Executive relate to draft proposals relating to the budget or policy framework and require a decision, they must contain details of any consultation to be undertaken with stakeholders and relevant Overview and Scrutiny Committees. Final proposals must include details of the outcome of that consultation.
- 16.5 Reports on other matters must set out the details and outcome of any consultation process considered relevant or appropriate.

Executive Agenda

- 16.6 The Leader or any Member of the Executive may request that the Monitoring Officer places an item on the agenda of the next available Executive meeting.
- 16.7 The Monitoring Officer will place the item on the agenda of the next available meeting of the Executive in accordance with the Access to Information Procedure Rules or where full Council has resolved that an item must be reconsidered by the Executive.
- 16.8 The Monitoring Officer and Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and/or may call or be required to call a meeting in pursuance of their statutory duties. In other circumstances, where both the Chief Financial Officer and the Monitoring Officer are of the opinion that an Executive meeting needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive within an appropriate timescale to deal with the issue in question, then they may also require that a meeting be convened at which the matter will be considered.

Voting Procedure

- 16.9 The Executive will decide all matters before it on a collective basis (except where dissent is recorded by Members), by simple majority. The Chair will have a casting vote.

Individual recorded vote and explanation for vote

- 16.10 If immediately before the vote is taken any voting Member present at the meeting requests that his or her vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.

Duration of Meetings of the Executive

- 16.11 While the duration of meetings is at the discretion of the Chair, meetings shall not normally last longer than 4 hours.

Attendance by Members not part of the Executive

- 16.12 While any Member of the Council may attend a meeting of the Executive, they may only speak either in accordance with these Rules or where invited to do so by the Leader.

Implementation of Executive Decisions

- 16.13 In order to allow for Call-In, no Executive Key Decision can be implemented until the expiry of five clear working days after the decision has been published. Exception may be made where the decision-taker resolves as part of the decision that its implementation is urgent, provided that the relevant provisions in the Overview and Scrutiny Procedure Rules on urgency and the Call-In procedure apply (at para 19 of Part 3C1 of this Constitution).

Confidential Business

- 16.14 All reports, other documents, information, discussions and proceedings of the Executive, or Cabinet member which are marked Exempt under Schedule 12A of the Local Government Act 1972, or Confidential must be treated as such by all

Members. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential and/or exempt items will be discussed in 'Part II' of the meeting following a resolution to exclude the press and public.

- 16.15 All Executive Meetings and Key Decisions taken by the Leader shall be subject to regulation 5 (Part 2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The Access to Information Procedure Rules (Part 3E) set out the requirements for advance notice of any private meeting.

Minutes of the Executive

- 16.16 Minutes of the Cabinet Meeting shall be published on the Council's website.

Production of Decision Notices and Minutes for Key Decisions

- 16.17 A Decision Notice will normally be published on the Council's website on the day immediately following a Key Decision, thereby invoking the Call-in period. Minutes of the Cabinet and other Executive Meetings will normally be published within five clear working days of the meeting.

Exclusion of the Public

- 16.18 Members of the public and press may only be excluded from Cabinet Meetings either in accordance with the Access to Information Procedure Rules in Part 3E of this Constitution or under Rule 18.2 and 18.3 below.

17 Prevention of Disorderly Conduct

Misbehaviour by a Member

- 17.1 If the person presiding at any meeting of the Executive is of the opinion that a Member has misconducted, or is misconducting, themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, they may notify the meeting of that opinion, and may take any of the following actions, either separately or in sequence:

- (a) they may direct the Member to refrain from speaking during all, or part, of the remainder of the meeting;
- (b) they may direct the Member to withdraw from all, or part, of the remainder of the meeting;
- (c) they may order the Member to be removed from the meeting;
- (d) they may adjourn the meeting for fifteen minutes or such period as shall seem expedient to them.

Misbehaviour by a Member of the Public

- 17.2 If a member of the public interrupts proceedings at any meeting, the person presiding shall order them to leave the room where the meeting is being held. If they do not leave, the person presiding shall order them to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for fifteen minutes or such period as shall seem expedient to them.

- 17.3 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary. If there is a general disturbance in any part of the meeting room open to the public the Chair may call for that part to be cleared.

PART 3B1 - APPENDIX TO EXECUTIVE PROCEDURE RULES: DELEGATED POWERS OF CABINET MEMBERS

1. Key Decisions

Note: the definition of a Key Decision and the process to be followed in relation to them – including the requirements as to publicity and also Call in– are published in Article 6 of this Constitution and are to be read in conjunction with the Access to Information Rules at Part 3E and the Overview & Scrutiny Procedure Rules at Part 3C1 of this Constitution.

Key Decisions normally taken collectively, at a meeting of the Executive

- 1.1 No Key Decision may be taken by any individual Member of the Executive other than at a meeting of the Executive, with the exception of the Leader or (under Temporary Arrangements, as outlined at para 3.1 of this Appendix) one of their Deputies in their stead.

Key Decisions: the Leader's powers

- 1.2 While all Key Decisions shall normally be taken collectively by the Executive at a meeting of Cabinet, the Leader retains delegated authority to make Key Decisions in addition to non-Key Decisions where they take the view that it is not appropriate to convene a special meeting of the Executive, having had regard to the importance of the business to be considered, the urgency of the decision and the need to avoid disproportionate inconvenience.
- 1.3 All Key Decisions made by the Leader under para 1.2 above shall be subject to the Council's normal rules on Key Decisions, including the requirements regarding publication both in the Forward Plan and also once the decision has been taken, as well as the expectation that all Key Decisions will be made in public.

Non Key Decisions taken by individual Cabinet members

- 1.4 While individual Cabinet members other than the Leader may not take Key Decisions, they may take non Key decisions in those areas for which they have delegated responsibility as indicated in the Allocation of Responsibilities List, provided that a record of that decision is subsequently published by the Council.

2. Urgent non Key Decisions outside a Cabinet member's delegated authority

- 2.1 When an urgent non Key Decision needs to be taken in circumstances where to wait until the next scheduled meeting of the Executive is considered to be prejudicial to the best interests of the Council, and where a Cabinet member is not empowered to act under paragraph 1.4 above, or the relevant Cabinet member is for any reason unavailable, then the Leader, (or in their absence, one of their Deputies) may, after such consultation with any Cabinet member as they consider appropriate, take the decision.
- 2.2 All decisions taken pursuant to 2.1 must be taken in a way that fully complies with the Council's procedural rules.

Publication of all Executive Decisions

- 2.3 All decisions taken either by the Leader or by an individual Member shall be published on the Council's website, whether they are Key or non-Key Decisions.

2.4 It should be noted that where a decision is deemed to be urgent, and where the provisions specified in the Overview & Scrutiny Procedure Rules at Part 3C1 of the Constitution are deemed to apply, then that decision will not be subject to the Call-In procedure provided the correct process has been followed.

3. Temporary Arrangements

3.1 In the absence of the Leader, either of their two Deputies may undertake their responsibilities and exercise the delegated powers of the Leader to the extent permitted by the Constitution.

3.2 In the absence of an individual Cabinet member, the Leader (or in their absence either of their two Deputies) may undertake the individual member's responsibilities and exercise their delegated powers, including by taking non-Key Decisions normally determined by that member.

3.3 If a Cabinet member is absent for an ongoing period, the Leader may, on a temporary basis, allocate the responsibilities and delegated powers of that Cabinet member to one or more other Cabinet members with immediate effect. If the Leader makes such an allocation they must at the time notify all Members of Council of the temporary transfer of responsibilities and power and of the likely period of such arrangements.

3.4 None of the delegated powers above authorise the taking of a decision which either by law or by the operation of the Procedural Rules of the Council is required to be taken at a full meeting of Council.