

## STANDARDS COMMITTEE

Tuesday 19 November 2019 at 7.00 pm

Committee Room 1 - Epsom Town Hall

The members listed below are summoned to attend the Standards Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Liz Frost (Chairman)  
Councillor Hannah Dalton (Vice-Chair)  
Councillor Kate Chinn  
Councillor Robert Foote  
Councillor Eber Kington

Councillor David Reeve  
Councillor Guy Robbins  
Councillor Chris Webb  
Councillor Peter Webb

Yours sincerely

A handwritten signature in dark ink, appearing to read "J.C. Beldan".

Chief Executive

For further information, please contact Democratic Services, tel: 01372 732122 or [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk)

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## **AGENDA**

### **1. DECLARATIONS OF INTEREST**

Members are asked to declare the existence and nature of any Disclosable Pecuniary Interests in respect of any item of business to be considered at the meeting.

### **2. CONSTITUTION UPDATE - PART 5: SECTION 8 PLANNING PROTOCOL** (Pages 5 - 42)

This report presents the outcome of a review of the 'Model Code of Practice in respect of Planning Matters: Probity in Planning', and seeks to replace the current document with a new 'Planning Code of Practice'.

### **3. CONSTITUTION UPDATE - REVISIONS TO PART 1, 2 AND 4** (Pages 43 - 134)

This report updates and proposes changes to Parts 1, 2 and 4 of the Constitution.

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## **CONSTITUTION UPDATE - REVISIONS TO PART 5: SECTION 8 PLANNING CODE OF PRACTICE**

<b>Head of Service/Contact:</b>	Amardip Healy, Chief Legal Officer
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Annexes/Appendices (attached):</b>	<b>Annex 1</b> - draft Planning Code of Practice <b>Annex 2</b> - Model Code of Practice in respect of Planning matters: Probity in Planning.
<b>Other available papers (not attached):</b>	Report and Minutes to the Planning Committee, 18 January 2018 and Council February 2018.

### **Report summary**

This report presents the outcome of a review of the 'Model Code of Practice in respect of Planning Matters: Probity in Planning', and seeks to replace the current document with a new 'Planning Code of Practice'.

### **Recommendation (s)**

**The Committee is asked to:**

- (1) consider the new draft Planning Code of Practice (Annex 1) for approval, and**
- (2) approve changes to Part 5 Section 8 of the Constitution, as set out in Annex 1 along with any other changes which may be agreed, with a referral to Council for adoption.**

## **1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy**

- 1.1 Good Corporate Governance underpins delivering the Council's Key Priorities.

## 2 Background

- 2.1 A comprehensive review of the current Constitution is currently underway to ensure that it complies with all relevant statutory requirements, and its processes and procedures meet the needs for organisational efficiency and achieve good governance.
- 2.2 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner. Some of the content of the Constitution is required by law; the remainder is for the Council itself to determine. The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, and structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.
- 2.3 The review of the Council's Constitution has so far included the following elements:
  - 2.3.1 Work to review the Constitution started on Part 3 and the Protocol for Managing Member/Officer relations in Part 5, both of which were approved by the Council on 17 July 2018.
  - 2.3.2 Changes to Part 4 were approved by the Council in December 2018. As a result of changes to Part 4, an additional Protocol was added to Part 5 (the Protocol and Guidance on recording, photography & use of social media).
  - 2.3.3 In April 2019 changes were made to sections of Part 5, including a new Code of Conduct for Members and general updating of other sections within the Part. Members were also advised that the Model Code of planning practice was under review.
- 2.4 By way of background to the planning code of conduct, Planning Committee agreed a Planning Improvement Action Plan at a special meeting on 13 November 2017. The Plan contained a number of actions to implement changes to the practices and procedures, with one action to update versions of the Planning Code of Conduct and Delegation Scheme.
- 2.5 At the time the revised Model Code of Conduct brought practice into line with the Localism Act and National Planning Guidance. The opportunity was also taken to refresh the processes around the use of the local convention of "call in" - i.e. the ability of councillors to require an application to be considered by the Planning Committee.

- 2.6 It was agreed by Members that a review of the current Code would continue in line with the process of continuous improvement of process and procedures. The current review has taken a little longer than initially envisaged, to allow time for the new officer team establish itself. The draft Planning Protocol has been the subject of consultation and discussion by officers within both the Council's Planning Service and Leadership Team, to ensure it remains a focussed and effective.

### 3 Proposals

- 3.1 Following a detailed review of the current Model Code, along with consideration of the issues needing to be addressed, it was felt a new document was needed as opposed to a updating of the old.
- 3.2 The new draft Planning Code of Practice, attached at **Annex 1** is a very different type of document from its predecessor (attached at **Annex 2**). The training program on planning and an updating of the Members Code of Conduct have all helped in securing a different context to that which existed previously. It is therefore felt that a document which specifically deals with matters as opposed to restating generally the contents of the Members Code of Conduct, is more relevant now.
- 3.3 At the same time of setting out a new planning code of practice for members, it was also useful to set out a process and procedure for both public speaking the conduct of Planning Committee. The aim of this is to help with both transparency and the public's understanding of the arrangements for a meeting and also how Planning Committee makes decisions.

### 4 Financial and Manpower Implications

- 4.1 There are no financial implications for the purposes of this report.
- 4.2 **Chief Finance Officer's comments:** None for the purposes of this report.

### 5 Legal Implications (including implications for matters relating to equality)

- 5.1 Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep the Constitution up to date and regularly review it. There are no specific equality implications from the proposed amendments.
- 5.2 **Monitoring Officer's comments:** It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The process of updating the Constitution will ensure it fulfils its stated purpose, as set out in Article 1 of Part 2 of the Constitution. The planning code of practice is a document which is included within the Constitution and therefore it is important to review it regularly.

**6 Sustainability Policy and Community Safety Implications & Partnerships**

6.1 There are no implications of the purposes of this report.

**7 Risk Assessment**

7.1 The Council needs a sound Constitution that is kept up-to-date and fit for purpose. By adhering to the rules and guidance set out in the Constitution, Officers and Members alike protect themselves from risk of challenge.

7.2 The changes to the Constitution are being taken in sections and a further review of the whole document will be undertaken when all parts have been individually reviewed. Accordingly, the recommendations in the body of the report are commended to the Committee. If approved a report will be taken to the next Council meeting seeking approval and adoption of Part 5, Section 8.

**Ward(s) affected:** (All Wards);



# Section 8 - Planning Code of Practice

*Incorporated into the Constitution in December 2007; Revised January 2018; revised December 20XX*

## Introduction

Planning decisions affect the homes and livelihoods of residents, businesses and other stakeholders, as well as impacting on the environment itself. They can be important and controversial and those affected by a planning decision can and should expect high standards of probity from the Council and a fair and accountable decision-making process.

This Code provides guidance to assist Members and officers on how to ensure these standards are met. In doing so, it supplements the Members' Code of Conduct. This Planning Code of Practice applies to all members when they are involved in the planning process.

The Code is divided into 2 parts:

- **Guidance on conduct and decision-making issues in planning matters;** and
- **Guidance on Planning Committee procedure.**

For ease of reference, all references to Councillor and Member will refer to an elected member of the Epsom & Ewell Borough Council. Unless the context of the advice refers to the wider Council Members, the reference shall be to those who sit on or as substitutes on Planning Committee. References to the Council will, as the context so requires, refer to the Council's role as the Local Planning Authority.

Advice on this Code is always available from the Council's Monitoring Officer.

# Guidance on conduct and decision-making issues in planning matters

## 1 Conduct

### The Code of Conduct for Members

- 1.1 The Code of Conduct for Members in Part 5 of the Council's Constitution imposes standards of conduct upon all Councillors.
- 1.2 The key provisions that arise in the planning field are:
- To act solely in the public interest and never improperly to confer an advantage or disadvantage on any person or improperly act to gain financial or other material benefits for themselves, their family, friends or close associates;
  - Declaring and registering interests;
  - Making decisions free from bias and where the outcome is not pre-determined;
  - Declaring gifts and hospitality.
- 1.3 Although the Code of Conduct for Members is the key document, for easy assistance, a short note on each of these provisions is set out below.

### Declaring Interests

- 1.4 Members must declare any interests in a planning decision to ensure the Member's private interests do not interfere, and are not perceived as interfering, with their public duties. The nature of the interest must also be declared save where it is a 'sensitive interest' as defined by section 32 of the Localism Act 2011.

### Pecuniary Interests

#### What is a pecuniary interest?

- 1.5 A disclosable pecuniary interest is any interest prescribed as such by regulations issued by the Secretary of State (currently the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the "Regulations") **and**
- a) it is either the interest of the Member; **or**
  - b) is the interest of their spouse or civil partner; a person with whom the Member lives as husband or wife; or a person with whom the Member lives with as if they were a civil partner; **and**
  - c) the Member is aware that the other person in (b) has the interest.

### **When must pecuniary interests be declared?**

1.6 A Member should:

- **Disclose** the interest at the start of the meeting when asked by the Chairman/Chair or, at the latest, when the Member becomes aware that an item relates to the pecuniary interest; **and**
- **Withdraw** from the meeting room for the relevant item, **and**
- Not participate or participate further in any discussion and / or vote on the matter at the meeting.

### **Non-pecuniary Interests**

#### **What is a non-pecuniary interest?**

1.7 Non-pecuniary interests can include:

- Appointments made by the Council to any outside bodies (excluding joint committees with other local authorities);
- Membership of charities;
- Membership of lobbying or campaign groups;
- Governorships at any educational institution in the Borough; and
- Membership of voluntary organisations operating in the Borough.

**Note to Members:** please remember that you must declare the interests of your spouse or civil partner, or person with whom you are living as if a spouse or civil partner. However, if you are unaware of another person's interest or it is reasonable for you not to be aware of the interest, you will not be in breach of the Code by failing to declare it.

### **When must non-pecuniary interests be declared?**

- 1.8 A member with a non-pecuniary interest must declare the interest at the start of the meeting or when it becomes apparent. The member may remain in the meeting and may participate in the matter and vote upon it.
- 1.9 The member should take into account guidance set out in the Code of Conduct for Members (Section 3) on predetermination and bias with regard to participation in meetings and seek advice from the Monitoring Officer where appropriate.

### **Abuse of Position**

- 1.10 Planning decisions often have a significant effect on residents and other stakeholders. Members must serve the whole community when making planning decisions; they must consciously not use their vote to advantage or disadvantage an individual or business. This includes using a vote to favour themselves, a relative, friend or constituent; or to be overly influenced by a lobbying group. It also

includes doing something that adversely affects somebody or a group that a Member dislikes or opposes.

**Examples:**

- \*Advancing your own or a friend's or relative's planning application.
- \*Requesting that planning committee consider an application that you, a relative or friend opposes.
- \*Using visiting speaking rights to advance your interests or those of a friend or relative or oppose the interests of an adversary.

**Note to members:** There is considerable crossover with the duty to declare interests and seeking to obtain an improper advantage – in each of the cases above the Member risks apparent bias, which could leave the decision open to challenge.

- 1.11 This rule only affects improper actions. It is perfectly proper for Members to consider legitimate constituency and lobbying interests, so long as the final decision in a meeting is based on an open consideration of all issues and proper planning reasons.

**Declaring Gifts and Hospitality**

- 1.12 Members should also be very cautious about accepting gifts and hospitality, particularly from developers. Members should bear in mind the public perception of the receipt of any gifts, although at times some limited hospitality is unavoidable.
- 1.13 Members are required to register the receipt of gifts and hospitality over the value of £100 (Code of Conduct for Members, Section 5) and the identity of the donor, and to declare these details at the meeting where they relate to the business to be conducted.

**2 DECISION MAKING**

- 2.1 Generally, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. It is important to note that if the development plan is not up to date and or the National Planning Policy Framework sets out requirements which conflict with a development plan, elements of parts of the development plan may have been superseded. Decision making in such instances will need to carefully consider the wider policy context along with any material considerations. All references in this Protocol shall be read accordingly.
- 2.2 Any issue relating to the use and development of land is capable of being a material consideration.

- 2.4 When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 2.5 Planning applications that accord with the policies in the Development Plan will be approved without delay, unless material considerations indicate otherwise.
- 2.6 Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:
- 2.6.1 Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- 2.6.2 Specific policies in the Framework that indicate development should be restricted.
- 2.7 Reasons must be given for either the grant or a refusal of a planning permission in accordance with Development Management Procedures.
- 2.8 The reasons to be given, where permission is refused or conditions imposed must:
- (1) be stated clearly and precisely;
  - (2) be relevant and full;
  - (3) specify all policies and proposals in the development plan which are relevant to the decision; and
  - (4) give details of any direction given, or opposing view expressed, by the Secretary of State or a Government Department.
- 2.9 If Members intend to make a decision contrary to the officer's recommendation, it is particularly important to ensure that Members are clear about the reasons for their decision before voting. Members are strongly advised to seek officers' advice in these cases and may wish to defer the matter until advice has been sought.

### **Predetermination and Bias**

- 2.10 Those applying for planning permission, or objecting to a development, can expect that Planning Committee members will be unbiased and will not pre-determine the application. The appearance of predetermination or bias on behalf of any Member

who takes part in the discussion and/or votes may result in the validity of any decision taken on the matter being challenged through the courts. The courts have repeatedly quashed planning decisions where Members are held to have pre-determined the decision, irrespective of the fact they did not stand to gain financially or otherwise from the decision.

- 2.11 Pre-determination is a form of bias. It means that a Member has made up their mind on a planning application before hearing the evidence. It is perfectly permissible for a Member to have a strong view on an application; this is known as predisposition. Predisposition is lawful. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of those making representations. In other words, the Member retains an “open mind”.
- 2.12 Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a Member has done something that would indicate what view they may take in relation to a matter relevant to a decision. However, if a Member has done something **more** than indicate a view on a decision, this may be unlawful bias or predetermination.
- 2.14 Members who also sit on other Council Committees, that have discussed and formed a view on a planning matter, should always seek advice on whether they may have pre-determined the matter.
- 2.15 Members who consider they may have predetermined an application should seek advice from the Monitoring Officer. They should declare any predetermination in the meeting and not take part in the relevant item(s).
- 2.16 Bias is also unlawful and can arise from a member’s relationships or interests, as well as their state of mind. The legal test is: *“whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased”*. A fair-minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek legal advice. Members should declare such an interest in the meeting and not take part in the relevant item(s).

- 2.17 Members should have in mind the advice in this Code at all times, including when attending Council briefings by Developers. When attending such presentations, it is vital that Members restrict themselves to factual questions and do not indicate a view on the development.

### **3 LOBBYING**

- 3.1 Those who may be affected by a decision on a planning application – applicants, developers, objectors, other councillors and pressure groups - will often seek to influence its outcome through the lobbying of their elected ward councillors or Planning Committee members. Lobbying is a normal and legitimate part of the process, but unless all the parties concerned exercise care, it can lead to Members' impartiality and integrity being called into question.

#### **How to Deal with Lobbying**

- 3.2 Members must keep their minds open when considering a planning application. The intention of lobbying is to try to make a Member vote in a particular way on a decision. In dealing with lobbying, Members can listen to the views of their constituents and other stakeholders. However, they should refrain from expressing any opinion or view. Members must retain their independent judgement and serve the community as a whole when sitting on the Planning Committee.
- 3.3 This can at times prove difficult, because emotions and feelings often run high. If faced with such a situation:
- Members should tell lobbyists politely that, as they sit on the Planning Committee, they cannot express any views on an application's merits before the meeting or agree to vote in a particular way;
  - Members can listen to what lobbyists have to say but then should direct them to the relevant planning officers and provide advice on how to contact officers;
  - Written representations and petitions should be directed to, or forwarded to, the relevant planning officers;
  - Members should not enter into a debate on the merits of the application, as this may lead to comments being misinterpreted;
  - Lobbied Members should seek advice if they consider it may affect their ability to determine an application fairly;
  - Members should declare any lobbying at the relevant planning meeting.

These requirements also apply to local ward meetings, when the merits of specific developments are discussed. Planning Committee members should explain that they cannot participate in the discussion if they intend to sit on the Planning Committee when any subsequent application is to be determined.

### **Membership of Lobby Groups**

- 3.4 Members involved in planning decisions should take care when joining and being active in lobby groups. When considering whether membership of a lobby group could create the perception of bias or pre-determination of the matter, Members should consider the following factors:
- The nature of the matter being discussed;
  - The nature of your involvement in the group;
  - The publicly expressed views of the lobbying group;
  - What the Member has said or done in relation to the particular issue.
- 3.5 Membership and involvement in a lobby group – particularly a leading role in a campaign – can give rise to the risk of predetermination. Members are encouraged to seek the advice of the Monitoring Officer before participating in planning decisions where membership of a lobby group is relevant.

### **The Party Whip & Lobbying by Councillors**

- 3.6 Political party whipping can be seen as a form of lobbying and is inappropriate in Planning Committee meetings. Lobbying by councillors should be dealt with in the same way as other lobbying.

### **Pre-application Discussions**

- 3.7 Pre-application discussions are a normal part of the planning process and can be of considerable benefit to both parties.
- 3.8 If Members are involved, such discussions can become, or be seen (especially by objectors) to become, part of a lobbying process. Pre-application discussions should therefore be left to officers. If Planning Committee members are involved in pre-application discussions, the following principles should apply:
- Involvement must only be in meetings arranged by officers and an officer must be present at all times;
  - Officers will inform the developer in writing that the purpose of the meeting and the principles set out in this section and will confirm the outcome of the meeting in writing afterwards;
  - Members should avoid any contact, whether in person or not, with the applicants or the agents outside these meetings;
  - Members must not express an opinion on the application or involve themselves in any negotiations on the development that could suggest they have predetermined the application;



- Members must not attend meetings with a Developer after an application is lodged, unless organised and attended by the officers (this does include public exhibitions relating to an application);
- Members must declare their attendance at any such pre-application meetings and any other meetings involving the Developer, at the subsequent consideration of the application.

## **4 PLANNING APPLICATIONS BY THE COUNCIL, COUNCILLORS & OFFICERS**

4.1 It is perfectly legitimate that the Council, acting as the Local Planning Authority, will have to determine its own planning applications, and those of Members and officers. The Council needs to take additional care with such applications and the public perception of how such applications are handled is crucial to the Planning Committee's credibility as an impartial decision-making body. The following principles will be followed:

- Proposals for the Council's own development that include the erection of any building or a material change of use will be determined by the Planning Committee;
- Minor changes to application or an uncontested application, can be delegated to Officers to determine under Officers Scheme of Delegation;
- Officers who submit an application in respect of a planning matter will take no part in its processing or determination and shall not seek to influence it improperly;
- Officers who act as a decision maker or as agents for the Council in pursuing a planning matter will take no part in its processing or the decision-making process and shall not seek to influence it improperly;
- All applications made by Members and officers or on their behalf (including Lawful Development Certificate applications) will be determined at Planning Committee;
- Members who sit on other Committees should take care when participating in planning decisions relating to a matter which they may have already determined, as they may be viewed as having pre-determined the application in their other role;
- Members who are close friends or relatives of other councillors making planning applications are likely to have the potential for apparent bias and/or predetermination and should seek advice before participating in the decision-making process;
- There is no bar on Members determining applications of councillors who are in the same political group so long as they are not close friends, business associates and/or relatives, or have not pre-determined the application.

## **5 MEMBER BRIEFINGS**

- 5.1 For large or complex applications it might be appropriate to hold a briefing for Members either before the application is submitted or before it is determined by the Planning Committee. Members' briefings will be open to all Members (not just those on the Planning Committee) and will be used by the applicant to provide information only. Such briefings will be organised by officers.
- 5.2 Such briefings are not part of and do not substitute for any part of the decision-making exercise to be undertaken by the Planning Committee.
- 5.3 At a briefing Members must not express an opinion on the merits of a proposal or involve themselves in any negotiations on the development and can ask factual questions only.

## **6 SITE VISITS**

- 6.1 Although some Members may have personal knowledge of a particular application site, organised site visits are nonetheless a useful means of putting an application into its physical and environmental context. There are two main circumstances where Members may need to undertake site visits:
- A formal visit of the Committee organised by officers;
  - Informal visits before a Committee meeting by individual Members who cannot attend the formal visit.

### **Formal Site Visits**

- 6.2 Officers may recommend, or Members of the Committee may request, a formal site visit. Any recommendations for site visits put forward sent to the Head of Service for Planning. Site visits to larger, complex or controversial sites will be arranged for Members shortly before the Committee meeting. At these site visits, officers will accompany Members to selected sites, explain the nature of the development proposed and point out any features that Members should consider when determining the application.
- 6.3 The purpose of the site visit is to enable Members to inspect the site and to better understand the impact of the development. The following procedure should be followed:
- Visits will not be publicised save to obtain permission to enter private land;

- The applicants, objectors or any other parties interested in the application will not be allowed to accompany Members and officers, except where attendance is necessary to allow entry, or for health and safety or other necessary purposes;
- No representations should be heard and no opinion expressed and no decision should be made;
- Photographs and videos (of areas not publicly accessible) may be taken only with consent of the owner.

### **Informal Site Visits**

- 6.5 If a Member cannot attend the formal site visit and wishes to view the site, s/he may undertake an informal site visit. The Member should follow the principles below:
- Visits should be discreet and unaccompanied;
  - If approached, Members should explain who they are but politely refuse to engage in any discussion of the application;
  - Members should not go onto the application site itself if private land, to avoid risks of lobbying, trespass and for health and safety reasons;
  - Visits should be declared at the meeting;
  - Photographs and videos (of areas not publicly accessible) may be taken only with consent of the owner.
- 6.6 Attendance is not compulsory, but Members who did not attend a formal or informal site visit should consider whether they have sufficient knowledge of the proposals to take part in the subsequent debate and vote and should be careful if they wish to raise the need for a site visit at any discussion of the Committee.

## **7 MEMBER DEVELOPMENT**

- 7.1 The planning system is complex and subject to change. As a matter of good practice Members deciding planning applications and Members acting as substitutes on Planning Committee, have an accurate and up-to-date understanding of planning law and procedure. Officers will ensure there is a programme of on-going Members' planning training, which covers all relevant issues. Members are expected to attend as many sessions as possible and especially those covering the key issues or held after a major change in planning policy or law.
- 7.2 Any Group should maintain a list of Members who have received training and only put forward substitutes from this list. A Member cannot sit on Planning Committee unless they have received the necessary compulsory training.

## 8 MEMBERS ACTING IN THEIR PRIVATE CAPACITY

- 8.1 Members acting in their private capacity are not entitled to call planning applications in and have only the same rights as any other member of the public or planning professional in terms of meeting with Council officers and being able to access information about planning applications.

## 9. MEMBER CALL-IN PROCEDURE

- 9.1 A Planning Committee Member or a Member representing the Ward in which development is proposed, may wish for a planning application to be considered by the Planning Committee. In these circumstances, the following rules will apply to call in a matter, any failure to do so will allow such application to be determined under delegated authority:
- A “call-in” request must be received within **28 calendar** days following the date of public notification by the Planning Service. This gives Members enough time to read the comments being received from other parties (who have 21 days to comment).
  - The request must be on the relevant form (which can be sent by email) to the Case Officer, copied to the Head of Planning and Planning Development Manager asking that the item being referred to, be “called-in” to the Planning Committee,
  - The request must be on **relevant planning grounds** or **merit** intervention to have the application placed before the Planning Committee.
- 9.2 It is not the case that just because a member of the public requests call-in of an application on their behalf, that this should be actioned. It is the responsibility of members to explain to their electorate that a call-in cannot be justified, as there are no planning grounds for doing so.
- 9.3 **All “call-ins” made by Members stating material planning grounds and within 28 calendar days will be valid.**
- 9.4 Where the “call in” is not made on material planning grounds, the “call-in” will be **invalid**. The decision as to whether the grounds are justifiable will be the decision of the Head of Planning, in consultation with the Chairman of Planning.
- 9.5 A Member who has a Disclosable Pecuniary Interest should **NOT** ask for an item to be called in or if there is a risk of the Member being seen as biased, for example if the Member has a very strong connection through a non-pecuniary interest.
- 9.6 Members who have asked for a call-in must ensure that they attend the committee meeting to which the item is being discussed to explain the planning reasons why the application merited consideration by the Planning Committee.

# Guidance on Committee Procedure

## 1. INTRODUCTION

- 1.1 This guidance supplements the Council Procedure Rules which apply to Planning Committee, providing advice on specific issues that arise before and in Planning Committee meetings.

## 2 REPORTS

- 2.1 Reports on planning applications form the key evidence base for Committee decisions and must therefore be accurate, comprehensive and fair. Reports must include
  - all relevant development plan policies and material considerations;
  - a clear recommendation with a supporting technical appraisal;
  - a summary of the reasons in support of the recommendation; and
  - details of the conditions and obligations required to be imposed.
- 2.2 There is a risk that when significant material is submitted at a late stage, insufficient time is allowed for the Committee to read or digest it, and the public are not sufficiently informed.
- 2.3 Update reports should be submitted only when information was not available to officers before the publication deadline for the main report and which the Committee requires to make a fair decision, information requested by Members during a Committee site visit, or additional conditions or informatives. Time will be set aside at the meeting for members to read any update report.

## 3 APPLICATIONS OF COMMUNITY INTEREST

- 3.1 Upon receipt of an application, the officer responsible for development management must consider whether the application is of such community interest that changes need to be made to the usual meeting arrangements. This is likely to be the case if there have been more than 300 representations made. If so, s/he must arrange a pre-meeting with planning officers, Legal & Democratic Services, Town Hall Support and the Chairman/Chair to consider:
  - The need for a separate meeting;
  - Modifications to the usual rules on public speaking;
  - The provision of additional staff to support visitors;
  - Risk assessment.

- 3.2 Any variations agreed to the Committee procedure must be included in the Agenda front sheet and reasonable steps must be taken by the report writer to inform the public and members.
- 3.3 There may be a need at late notice to vary the arrangements for a meeting in the event of either changes of circumstances or following a risk assessment. Notice of any changes will be given as soon as possible using appropriate medium. The decision of the Council will be final on any necessary late changes to the meeting's arrangements.

#### **4 CHAIRMAN/ CHAIR'S BRIEFING**

- 4.1 The Chairman/ Chair, may hold a briefing session with planning officers to review the agenda and go through the procedures for the meeting, to ensure effective management of the meeting.

#### **5 ORDER OF BUSINESS**

- 5.1 Meetings will have the following order of business:
- Emergency evacuation procedures;
  - Apologies for absence and substitutions;
  - Introduction of officers present
  - Declarations of interests under the Code of Conduct – (those with pecuniary interests will leave the room at the start of the appropriate item);
  - Minutes of the previous meeting;
  - Chairman/Chair's consideration of any update reports;
  - Items where prior notice of public speakers has been given;
  - All other items in the order on which they appear on the agenda.
- 5.2 The following order will be used for each agenda item, although individual items may not need to follow all these stages, e.g. if there are no public speakers:
- Presentation by planning officer;
  - Up to 2 registered objectors may speak;
  - Up to 2 registered supporters may speak (including applicants or their agents);
  - Ward Members may speak if their constituents have an interest that could be affected directly by the matter under consideration. Ward Members must also consider if they have an interest to declare under the Code of Conduct before participating;
  - Committee Members' questions and debate;
  - Voting.

## **6 MEETINGS GUIDANCE**

- 6.1 To ensure probity and transparency, the following guidance should be followed when considering an application:
- There must be no informal communication between Committee Members and any other person (including other Members). This includes during any adjournments. Any questions or comments should be made openly and through the Chairman/Chair;
  - Members must be present for the whole of an item in order to be able to vote on that item. If a Member arrives late, s/he must not vote on any item already in progress at the time of his/her arrival. If a Member requires a comfort break, the Chairman/Chair should grant a short adjournment;
  - Where an application is part heard, i.e, it is determined over more than one Committee meeting, the only Members who may vote on the application are those Members who are present at all meetings when the application is considered;
  - Reasons must be given for any decision reached – this is a legal requirement and should be clear before any vote.

## **7 VOTING**

- 7.1 The Committee's voting procedure must be clear, transparent and easy to follow. It is important that the public, the applicants and all other persons present understand what the Committee is voting upon. This can be difficult where the Committee has to vote more than once on an application to deal, for example, with motions to include planning conditions and obligations.
- 7.2 All applications will usually be voted upon as follows:
- No motions will be proposed during the debate of the matter, without the Chairman/ Chair's permission, to ensure a full debate of all applications;
  - The Chairman/ Chair will determine when the debate is finished, clarify any changes made to the officer recommendation and the details of what is being moved, including any additional planning conditions, informatives or obligations proposed;
  - If Committee members wish the item to be deferred for any reason (e.g. further negotiations or a site visit), this should be considered first and before any other formal decision making takes place;
  - The Chairman/ Chair will invite any Committee member to move and second the adoption of the officer's recommendation either to grant or refuse planning permission (as set out in the report). At this point, any changes to the officer's recommendation must be moved and seconded by members and determined by the Committee;
  - Any such motion proposed and seconded will be voted upon;
  - If a motion to grant planning permission is not carried, or no Member proposes the officer's recommendation, the Chairman/ Chair will invite Members to move and

second any other motion, which will then be voted upon. Reasons must be given for either the grant or a refusal of a planning permission (Town and Country Planning Development Management Procedure).

- The reasons to be given, where permission is refused or conditions imposed must:
  - ✓ (1) be stated clearly and precisely;
  - ✓ (2) be relevant and full;
  - ✓ (3) specify all policies and proposals in the development plan which are relevant to the decision; and
  - ✓ (4) give details of any direction given, or opposing view expressed, by the Secretary of State or a Government Department.

## 8 PUBLIC SPEAKING

- 8.1 Although members of the public have no legal right to speak at Planning Committee meetings, the Council recognises the value of representations on planning matters, and has adopted a protocol which governs public participation. No other speaking rights apply.

### Speakers

- 8.2 Up to 2 speakers who wish to object, and up to 2 who wish to support (which includes the agent/ applicant) may make oral representations, with 3 minutes allowed per speaker. The following procedure will apply:
- Planning officers will give, to the applicant and those that have lodged a consultation response, at least 5 clear working days' notice in writing of the date of the Committee meeting;
  - The agenda and reports for the meeting and relevant plans are published on the Council's website at least five clear working days before the meeting;
  - Speakers must register their wish to speak with Democratic Services by no later than noon on the day of Committee , contact details are:  
Tel: 01372-732121  
democratic.services@epsom-ewell.gov.uk  
Contact details are on the agenda frontsheet.
  - Only one speaker per household or organisation will be allowed;
  - The speaking slots will be filled on a first come, first serve basis (large groups may be required to nominate a lead speaker or need to be represented by a Ward Member to ensure a fair balance of speakers – see 8.4 below);
  - If no advance notice is given, there is no right to address the Committee;
  - Public speakers have no right of reply, and cannot engage in any debate.



### **The Applicant or Agent**

- 8.3 The applicant or agent (as stated on the application form) will have three minutes to speak. The rules at 8.2 above apply.

### **Ward Members**

- 8.4 Ward Members will be allowed to speak for three minutes only. They have no right of reply or to ask questions.

### **Part Heard Applications & Speaking Rights**

- 8.5 In exceptional circumstances where an application is part-heard (i.e. determined over more than one Committee meeting), the Chairman/ Chair may consider whether to allow any or all parties additional speaking rights in the following circumstances:
- A party has requested a further right to speak and the Chairman/Chair is satisfied:
    - There is a significant gap or delay between the first and second Committee meetings; and/or
    - There has been material amendment in the nature of the application (but not requiring a fresh planning application).
- 8.6 The Chairman/ Chair will seek advice from officers before exercising his/her discretion to allow further speaking rights under this section.

## **9 MEETING ETIQUETTE**

- 9.1 All representations should be heard in silence and without interruption. The Chairman/ Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chairman/ Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting.

## **10 VARIATION**

- 10.1 The Chairman/ Chair may, in appropriate circumstances, vary the procedure set out above where it is appropriate to do so to ensure a fair hearing and on the advice of officers.

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## **SECTION 8 - Model Code of Practice in respect of Planning Matters: Probity in Planning**

*Incorporated into the Constitution in December 2007; Revised January 2018*

### **1 Introduction**

- 1.1 Planning matters have a significant impact on our lives and the area in which we live. It is important that the system operates and is seen to operate, in an honest, open and transparent manner.
- 1.2 The purpose of the planning system is to consider development proposals in the light of wider public interests, with the Government requiring a positive approach to be taken towards allowing substantial development. To succeed, the planning system relies on Councillors and Officers acting in a way, which is fair and is clearly seen to be fair. This includes acting in accordance with Planning Law in all instances and paying due regard to national and local policies in addition to all other “material planning considerations.”
- 1.3 This Code of Good Practice has been adapted from national guidelines on probity to take account of the local situation. Two particular areas of the Localism Act 2011 are relevant to this code. Firstly, with regard to pre-determination the Act makes clear that it is proper for councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintain an open mind. Secondly, and related to pre-determination, the Act introduces a new requirement for developers to consult local communities before submitting planning applications for certain developments. This gives Members and local residents a chance to comment when there is still genuine scope to make changes to proposals at both pre-application and post submission stages.

### **2 Status of the Code**

- 2.1 This Planning Code is contained in the Council’s Constitution and is complimentary to the Council’s Code of Conduct for Members. Members of the Planning Committee should apply both the general Code of Conduct and the Planning Code in dealing with planning issues. This is to help Members maintain the Council’s high standards of conduct, avoid placing the Council at risk of legal challenge or a finding of maladministration by the Local Government Ombudsman, and avoid putting an individual member at risk of a complaint. A breach of this Code whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council.
- 2.2 The purpose of this Planning Code is to:
  - Set the standards of conduct the Council requires all Members and Officers of the Council to follow when dealing with and determining planning applications including policy, development and enforcement

- Guide the way in which Members and Officers of the Council deal with all planning decisions, supporting their respective roles, and protecting their reputation for probity
- Set the standard of conduct which other parties to the process can expect from Members and Officers when dealing with planning matters

2.3 This Code applies to all Members and Officers when making decisions on planning matters. It has been drawn up to:

- Support Members effective engagement in all aspects of the planning process and, in this context, to fulfil their democratic role
- Ensure transparency and fairness in the way in which decisions are taken and that there are no grounds for suggesting that a decision has in any way been biased, partial or not well founded

2.4 A key purpose of this Code is to help Members of the Planning Committee make formal planning decisions that are safe from legal challenge. It is also intended to be helpful to members of other committees and to ward members in relation to various planning decisions.

2.5 The benefit of a detailed Code is that it sets out clear lines of engagement and expectations for each of the parties involved including members of the public and developers.

### **3 General Role and Conduct of Councillors and Officers**

3.1 Members and Officers have different but complimentary roles in the planning process. Members of the Planning Committee have different roles to those of other Councillors.

3.2 Mutual trust, respect and understanding between Councillors and Officers are key to achieving effective local government. Officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

3.3 Officers, in their role of advising and assisting Members in their determination of planning matters in the public interest, do not represent either the landowner/applicant or the objector. They will:

- Provide impartial professional advice
- Seek to ensure consistency of interpretation of national, regional and the Council's planning policies
- Complete written reports with clear written recommendations and all necessary information for the decision to be made

- 3.4 The Code of Conduct for Officers is set out in full in Part 5 of the Council's Constitution. In addition, many professional staff within the planning service will be members of the Royal Town Institute (RTPI) and are required to comply with the RTPI Code for professional conduct. Planning officers, who are not RTPI members, are also expected to conduct themselves in the same manner.
- 3.5 It is important and best practice that Members recognise that Officers are part of a management structure and any concerns that they may have about the handling of a planning matter should be raised with the department manager. In general, officers and members should adopt a team approach and should recognise and respect each other's different roles.
- 3.6 Members must not put pressure on Officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views if submitted in written form will be placed on the planning file and considered together with other material planning considerations.
- 3.7 In reaching a decision, Members must ensure they read, consider and take account of the relevant material considerations connected with the application and should not favour any person, group or locality or put themselves in a position where they may appear to do so.
- 3.8 The Members of the Planning Committee should make all decisions in an open and transparent manner and this should not be compromised in any way. Such actions as messages being passed to Members of the Planning Committee during debate should be avoided as this could give an impression of undue influence from a third party. In an emergency, any communication should go through the Democratic Services Officer.
- 3.9 In order to ensure that decisions are taken on planning grounds and are sound, it is **imperative** that all Members of the Planning Committee read the reports prepared by Officers and familiarise themselves with all relevant National Planning Guidance (including the National Planning Policy Framework), Development Plan policies and other material considerations well in advance of the Planning Committee itself. It is important that Members be **seen** to be meeting this provision of the Code. Information on specific applications will be available on the Council's website via "Public Access".
- 3.10 Councillors who are Members of the Planning Committee are responsible for the determination of planning applications for major and controversial applications. The Planning Committee must assess proposals against national and local planning policy, are restricted to planning considerations, and **cannot** seek to control non-planning issues or duplicate other legislative controls.

- 3.11 Members of the Planning Committee must always approach their decision making with an **open mind**; have regard to **all** material planning considerations and be prepared to change their views if persuaded that they should. Members should remember that planning law requires determination to be based on **planning consideration** and not on any political or other reasons.
- 3.12 If Members do anything, which would show they had closed minds and had predetermined an application, then they should **not take part**. Showing a predisposition towards a particular course of action does not in itself demonstrate bias and prevent Members from taking part in the decision making, however it may well encourage legal challenge.
- 3.13 Members should **not** vote or take part in the meeting's discussion on an item unless they have been present to hear the entire debate, including the officer's introduction to the item.
- 3.14 Members should ensure that if they are proposing, seconding or supporting a decision contrary to an officer's recommendations or the development plan, they **clearly identify** and understand the planning reason leading to this decision. The reason/s must be given **prior** to the vote and be recorded. Members must be aware that the resulting decision may have to be justified by evidence at a planning appeal in the event of challenge.

#### **4 Interests: Registration and Disclosure**

- 4.1 The Law and the Councillor's Code of Conduct set out rules and guidance on declaring their interests. Councillors **must** follow these rules and guidance and review their own situation regularly.
- 4.2 If a Member has a Code of Conduct interest in any matter, the existence and nature of the interest **must be disclosed** at any relevant meeting. This is best done at the beginning of the meeting.
- 4.3 The Members' Code of Conduct states that Members must, within 28 days of taking office as a member or co-opted member, notify the authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is that of the Member, their spouse or civil partner, or is the pecuniary interest of somebody with whom a Member is living with as a husband or wife, or as if they were civil partners.
- 4.4 If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.

- 4.5 If a Member does have a pecuniary interest, unless granted a dispensation, the Member **may not** participate in making the decision, either formally or informally. The Member should also avoid giving **any** impression of participation, as it is important to maintain public confidence in the impartiality of Councillors in decision-making. Taking part whilst having a pecuniary interest **is** a criminal offence.
- 4.6 In relation to planning decisions, any interest that does not amount to a pecuniary interest, but which would have a significant impact upon a member's judgement, should be declared by the Member at the meeting. In each case, this would be a matter for the Member's **own** judgement having full regard to the facts.
- 4.7 An example of this type of interest might be in relation to a planning application on a site very near to the member's home (where it may well be advisable for the member not to take part).
- 4.8 Even if a member considers a non-pecuniary interest would not have a significant impact on their judgement, there are likely to be situations where the public expectation would be for the member not to participate. Equally, there may be circumstances in which a member of the public would not regard it necessary for a member to declare an interest or involvement in a matter but for reasons of good practice and transparency, a member chooses to do so, simply to be as open as possible. In these circumstances, the declaration would have no impact on the Member's participation.
- 4.9 Councillors who are unsure whether an interest should be declared or need guidance, should do so before the Planning Meeting, by seeking advice from the Monitoring Officer or Deputy Monitoring Officer.

## **5 Predetermination, Predisposition and Bias**

- 5.1 Members of the Planning Committee must ensure that they do not fetter their ability to take part in the decision making process by making up their minds or clearly giving any appearance that an application or other matter referred to the Planning Committee has already been determined, before the Planning Committee has the opportunity to consider the merits or demerits of an application.
- 5.2 The Planning Committee should when considering an application, take into account **all views** that are expressed in such a way that they are **openly heard** and **fairly** considered in a **balanced** way before the Committee reach a decision.
- 5.3 The courts have sought to distinguish between situations that involve predetermination or bias, on the one hand **and predisposition** on the other.

- 5.4 **Predetermination** is indicative of a “**closed mind**” approach and could leave the committee’s decision open to challenge by Judicial Review. Such “pre-determination” has been held to amount to the “surrender by the decision-maker of its judgement by having a closed mind and failing to apply it to the task”.
- 5.5 Members of the Planning Committee can have a **predisposition** to an initial view, but **must make it clear** that they have an **open mind** and are willing to listen to **all material considerations** presented before deciding on how to vote.
- 5.6 A councillor who has **predetermined** their position should **withdraw** from being part of the decision making body. If the councillor takes part in the decision making process it will put the Council at risk of finding of maladministration and of legal proceedings on the grounds of there being a risk of bias or predetermination or a failure to take into account all of the factors enabling the application to be considered on its merits.
- 5.7 Members and Officers should also avoid the **appearance of bias**, that is, appearing to give undue weight to particular matters on the basis of personal attributes, or social acquaintance, that might influence their conduct generally and ties in with comments made in relation to declarations of interest above. Whilst it might remain possible for a Member to apply an open mind to the matter to be determined in such circumstances Members must avoid giving the impression or appearance that particular personal interests or attributes would lead them to consider aspects of an application more carefully or with more regard than other aspects unaffected by their own character and experience. It should be understood that the perception of justice *“is rooted in confidence, and that confidence is destroyed when right minded people go away thinking that the judge was biased”*.
- 5.8 For Planning Committee Members the aim is that they act, and are seen to act, impartially and honestly by approaching each planning decision fairly between the parties and with an open mind. Should a Member wish to take a particular stance in relation to a development, or feel that it would be difficult to demonstrate that they have followed a consistently fair approach between all parties in a case, then it is perfectly possible for them to decide not to be part of the decision making process on the particular issue or application but to act as a ward member in that instance.
- 5.9 From time to time, members are invited by prospective developers or objectors to attend meetings to discuss proposed development schemes and questions have been asked about the propriety of such attendance. Members and the Council could be challenged where they have expressed their opinion on proposals during or after such meetings, or in advance of Committee consideration.



- 5.10 The administrative system by which planning applications are determined in accordance with the law, and as necessary in a democratic society, would be brought into disrepute if it became evident that decisions favourable to an applicant or an objector could be obtained by lobbying members outside the procedural framework. On the other hand, members may be said to have a duty, particularly as Ward Councillors, to inform themselves of proposals that affect their wards and to be alive to public opinion. Members can play a constructive role in listening to and objectively gathering and reporting such views to the Councillors who will determine the application.
- 5.11 With these points in mind, it is suggested that the following guidelines may be helpful to members when considering whether to accept an invitation to a meeting:
1. Where members accept invitations to meetings from prospective developers or objectors when an application for planning permission has been received, even if the invitation is made to them ostensibly as a Ward Councillor, they should avoid expressing any fixed view on the matter.
  2. Councillors must not make any commitment to determine a matter in a particular way, for any reason .
  3. Ward Councillors (subject to paragraphs 1 and 2 above) should not accept invitations to meetings from prospective developers or objectors unless it is clear to them that the meeting is either a public meeting or one to which residents or other persons with an interest in the potential development have also been invited. If a Ward Councillor attends such a meeting in the belief that others have been invited but finds that no other persons are present, apart from the developer, s/he should decline to take part in any discussion of the scheme. There is no reason to distinguish between meetings in neutral premises and meetings in the prospective developer's or objector's own premises.
  4. There is nothing to stop members inspecting a site from the public highway if they choose to do so in order to better acquaint themselves with the details, but members should be aware of the risk of contact with the applicant or objector and inferences, which might be made. If access to a site is required, a formal site visit should be sought through the planning Case Officer.
  5. There is nothing to stop members responding to invitations to a meeting if properly convened through the Chief Executive or by officers in the planning service to which all relevant members (but not members of the public) have been invited, provided that if the merits and problems of the application are discussed Councillors make it clear that they have no fixed view of the matter at that stage.
- 5.12 It will, of course, remain open for the Council to sanction a departure from these guidelines in special circumstances.

## **6 The Decision Making Process and Decisions Contrary to Officer Recommendations and/or the Local Plan**

- 6.1 All Committee decisions are made by a simple majority.
- 6.2 In discussing, and determining a planning application or other planning matter, Councillors should try to confine their discussion to the policies of the Development Plan, and to those material considerations that should influence their decision. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.
- 6.3 However, it is acknowledged that deputations by applicants or members of the public may refer to matters that should not properly be part of the reasoning of the members' decision. On such occasions, it may be difficult for members of the Planning Committee to confine their comments to the appropriate planning issues without appearing to disregard expressed concerns. Where it appears that the clarity of the decision-making process may be undermined, the Committee Chairman and officers may give guidance on any elements of the discussions that refer to irrelevant or immaterial considerations, and any elements that should be disregarded by the Committee in formulating its decision. Officers will clarify the weight to be given to the details of reports, or information that comes forward during deputations or in the course of debate.
- 6.4 If Councillors wish to refuse an application against officer advice, to impose additional conditions on a planning permission, or to approve an application contrary to officer recommendation, an officer should explain the implications of such action.
- 6.5 In circumstances where it seems likely that a planning application is likely to be refused against the officer's recommendation, the Chairman should consider whether it would be appropriate to require an adjournment of the meeting or even a deferral of that item to the next Planning Committee meeting to allow further discussions to be had. This is both to ensure that any potential reasons for refusal would be defensible at appeal and to give opportunity for any amendments that may overcome the potential ground for refusal.
- 6.6 Where they do not accord with the officer's recommendation, the Committee's reasons to grant an application or to refuse it or any additional conditions to be applied must be clearly stated by the member making the proposal.
- 6.7 If members cannot give sound and clear-cut reasons for a decision which may override the recommendations of the officers, it is not appropriate to require, or expect, that officers can explain such decisions to applicants, objectors or a planning inspector. When the Committee has made such a decision, the Chairman will allow brief discussion to ensure that officers have understood the intentions and reasons of the Committee. All conditions, including ones that the Committee may wish to impose on a planning permission, must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

- 6.8 If the report of the Head of Planning recommends approval of a departure from the Local Plan, the full justification for that recommended departure will be included in the report.

## 7 Lobbying

- 7.1 Lobbying is a normal part of the planning process and may not be restricted to members of the Planning Committee. If a Member, who is not on the Planning Committee wishes to support a particular viewpoint then that Member has a right to appear at Planning Committee and seek permission to address the meeting. This approach is recommended to protect the integrity of the members of planning committee against accusations of bias and/or predetermination as the public perception could be that the member added more weight to, or was swayed by views, of a colleague.
- 7.2 Since lobbying can lead to the impartiality and integrity of a Member being called into question it is clear that care should be taken, and all parties involved should exercise common sense. It is therefore important that Members protect their impartiality and integrity in planning matters. Planning Committee Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties as long as they make it clear that they are keeping an open mind. However expressing an intention to vote one way or another before a Planning Committee meeting would prejudice impartiality.

## 8 Councillor “Call-in” Procedure

- 8.1 Most planning applications are determined by Planning Officers in line with the Council’s Scheme of Delegation. However even when the Scheme of Delegation authorises Officers to determine the application a Planning Committee Member or a member representing the Ward in which development is proposed, may wish for a planning application to be considered by the Planning Committee . In these circumstances, the following rules must be complied with. Failure to do so entitles Officers to refuse to put the application to committee and determine it under delegated authority.
- A “call-in” request must be received within **28 calendar** days following the date of public notification by the Planning Services. This gives the Councillors enough time to read the comments being received from other parties (who have 21 days to comment).
  - The request must be in writing (email is acceptable) to the Case Officer, copied to the Head of Planning and Planning Development Manager asking that the item being referred to, be “called-in” to the Planning Committee,
  - The request must be on **relevant planning grounds** or **merit** intervention to have the application placed before the Planning Committee.

- 8.2 It is not the case that just because a member of the public requests call-in of an application on their behalf, that this should be actioned. It is the responsibility of members to explain to their electorate that a call-in cannot be justified, as there are no planning grounds for doing so.
- 8.3 **All “call-ins” made by Councillors stating material planning grounds and within 28 calendar days will be valid.**
- 8.4 Where the “call in” is not made on material planning grounds, the “call-in” will be **invalid**. The decision as to whether the grounds are justifiable will be at the discretion of the Head of Planning, in consultation with the Chairman of Planning and the members concerned.
- 8.5 A Member who has a Disclosable Pecuniary Interest should **NOT** ask for an item to be called in or if there is a risk of the Member being seen as biased: for example if the Member has a very strong connection through a non-pecuniary interest.
- 8.6 Members who have asked for a call-in must ensure that they attend the committee meeting to which the item is being discussed to explain the planning reasons why the application merits consideration by the Planning Committee.

## **9 Planning Applications made by Members and Officers**

- 9.1 When a planning application is submitted by a Member or by a close relative of a Member, the Member will:
- Advise the Monitoring Officer of the application
  - Take no part in the processing and determination of the application
- 9.2 All such applications will be reported to the Planning Committee. The Committee will determine such applications. An Officer will not determine such applications under delegated authority.
- 9.3 The same considerations shall apply to planning applications submitted by Chief Executive, Chief Operating Officer or Heads of Service, including the Head of Planning, Planning Development Manager or Planning Policy Manager.
- 9.4 Officers and Members must not act as agents for people pursuing matters within Epsom & Ewell Borough.

## **10 Late Representations**

- 10.1 Late representations by the applicant or objectors regarding applications being presented to Committee will be considered up until midday on the Monday immediately before the Planning Committee meeting (Thursday) and will be summarised by the Case Officer and sent to the Planning Committee Members at least one day before the meeting on the Thursday.

- 10.2 Comments or any other information received after the deadline will only be taken into consideration in exceptional circumstances at the discretion of the Head of Planning. This process ensures the Planning Committee Members have sufficient time to read any additional papers.
- 10.3 **No** material will be handed out at committee by anyone other than the Officers presenting the item before committee.

## **11 Public Speaking at Planning Committee**

- 11.1 Certain members of the public or organisations that have a planning related interest or could be affected directly by the matter under consideration will be entitled to speak at the Planning Committee.
- 11.2 These individuals/organisations fall into the following categories:
- Ward councillors who are not members of the planning committee
  - applicants or their agents
  - local groups
  - neighbouring occupiers or
  - owners of any premises which is the subject of an enforcement report
- and may either support or oppose the application.
- 11.3 An individual or representative of a local group/organisation who wishes to speak at a Planning Committee must register their wish to do so between 6pm and 7pm on the evening of the meeting at the Town Hall reception desk.
- 11.4 Normally, in addition to the applicant/agent, only one member of the public may speak for or against a single application. Registration will normally be on a first come first served basis but an individual may choose to waive this right in favour of an individual who attempted to register at a later time. Alternatively, several members of the public may appoint one person to speak on their behalf provided they can reach agreement to this amongst themselves.
- 11.5 A speaker shall have a maximum of three minutes to address the Committee and must confine their remarks to the application upon which they requested to speak. The applicant/agent shall be given an amount of time equal to the amount of time allocated to the all the objectors. The address shall be in the form of a statement, not attempts to question the applicant or other persons but may address issues raised by other speakers.
- 11.6 Speakers should only raise issues concerning planning matters such as;

- appearance and character of the application
  - traffic issues, highway safety and parking
  - layout and density of buildings
  - loss of light overshadowing and loss of privacy
  - noise, disturbance and other loss of privacy
  - other relevant planning considerations
- 11.7 There will be no opportunity for displaying any materials, such as maps, photographs or circulate any other materials or ask any questions of anyone at the meeting.
- 11.8 If the Chair considers that any remarks made are defamatory, no further representation will be allowed. Individuals or organisations will be invited to address the Committee following the presentation of the item by the Officer. The order of speakers will be:
- Ward councillors wishing to speak
  - Objector
  - Supporter
  - Applicant or their agent

## **12 Monitoring and Review of Decisions**

- 12.1 Planning Committee Members should play an active part in regularly reviewing the outcome of planning decisions so that lessons can be learned and the future consideration and determination of planning applications can be improved as part of a broader commitment to continuous improvement.
- 12.2 Arrangements will be made for Members to visit a sample of implemented planning permissions, so that a regular review of the quality of planning decisions can be undertaken.
- 12.3 The outcome of the review will be considered by the Planning Committee and may lead to the possible amendments to existing policies or practices

## **13 Training**

- 13.1 No Member (or Member substituting on a Planning Committee) may attend a Planning Committee meeting without first having received appropriate mandatory training as set out below.

- 13.2 The validity of this training will expire if the Member has not attended a meeting of the Planning Committee within 12 months of receiving it, or has had a gap in membership from the Committee of more than 6 months. Where the validity of the training has expired, the Member may not sit on the Planning Committee until they have received further training.
- 13.3 Given the complex legislative framework for determining planning applications and the constant reforms and changes within the planning system, the Head of Planning will provide a Planning Committee Training Programme to include:
- An annual training session that will provide an overview of the key role of planning and the role Members play in the planning process. This training will usually be held once the membership of the Planning Committee has been confirmed at Annual Council and should be attended by both new and continuing Members of the Committee. However, all members of the Council will be encouraged to attend to help them understand planning issues. If Members are appointed to the Planning Committee after the training has been held and have not received the necessary training, or act as a substitute for a Planning Committee Member, they will receive separate training.
  - A six month mandatory refresher session
  - Further training sessions as necessary on new Council and Central Government policy and legislation or other planning issues that are requested by Members or Officers. Again, all members of the Council will be encouraged to attend such sessions.
- 13.4 It is expected that Members will be available to attend training sessions and it will be the responsibility of each Member to ensure they have attended at least the annual training and the six-month refresher to enable them to sit on the Planning Committee. Democratic Services will maintain a register of Members who have received this training.

## **14 Complaints**

- 14.1 A complaint that a Member or Officer has breached this Code should be made in writing to the Monitoring Officer for investigation and determination
- 14.2 There is a specific right of appeal for applicants who are not satisfied with a planning decision. In all other cases, the Head of Planning will investigate a complaint made in writing regarding the determination of a planning application or a related planning matter and would deal with it in accordance with the Council's complaints procedure.
- 14.3 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.

- 14.4 The same principles of good record keeping will be observed in relation to all enforcement and planning policy matters. The Planning Development Manager will regularly monitor record keeping.
- 14.5 A complaint may be made to the Local Government Ombudsman in the event that the complainant was not satisfied with the result of the investigation under the Council's complaints procedure. This must be done directly to the Local Government Ombudsman.

## **15 Site Visits**

- 15.1 Members and Officers must remember, in conducting a site visit anything said or done by them should be restricted to relevant planning considerations and should remain open minded.
- 15.2 The purpose of an organised Council site visit is for Councillors to gain knowledge of the development proposal, the application site and its relationship to adjacent sites. The potential benefit of attending the site should be sufficient to justify the administrative expense and any consequential delay to determining the application.
- 15.3 The decision to hold a site visit prior to the Committee meeting is to be made by the Head of Planning in consultation with Chairman.
- 15.4 The purposes of a formal site visit prior to the Committee meeting are:
- to view the setting of the application,
  - to consider any other matters seen on site which may be material to consideration of the application, and
  - to find facts, especially when the application site is not visible from public land.
- 15.5 During a site visit members and officers should avoid any appearance of impropriety, and must not accept gifts or hospitality. Comments should be restricted to planning matters, and questions should be put through the planning officers attending the site visit. Officers and members must refrain from making comments that might be construed as supporting or opposing a particular view, and from making any personal comments.
- 15.6 The purpose of a formal site visit is not to receive or allow representations to be made outside the formal Committee meeting. If, on a site visit, Members and Officers are approached by persons wishing to speak about the application, Officers will explain that any representations may be made to the Committee at the meeting, and explain the procedure.



- 15.7 Site visits should be requested by Members prior to the application being reported to Committee. Councillors should only request a site visit when the application has reached the determination stage if they consider it essential to clarify an issue that cannot be understood without such a visit, and which could not have been considered earlier. The Committee may decide to visit a site because particular factors to be seen on site are significant in terms of the weight to be afforded to them in determining the application and because, following discussion in Committee, members have reduced confidence that such factors can be fairly considered in the absence of a site visit to assess such details. In proposing a site visit, the member who wishes the Committee to have additional opportunity to do so should specify the factors to be noted if the site visit is agreed.
- 15.8 Members with a pecuniary interest in a planning application should not make representations seeking a site visit in respect of an application. Members with a pecuniary interest in a particular application or agenda item must not attend any related site visit.

## **16 Development proposed by the Council**

- 16.1 Parliament has decided that local planning authorities are, in the majority of circumstances, the appropriate body for determining planning applications affecting the area, including where the Council itself submits a planning application. There are separate statutory requirements for the Council in determining applications to develop its own land, or to develop it jointly with another body.
- 16.2 Members and Officers involved in reaching a determination of the application should treat proposals for the Council's own development (or development involving the Council and another party) in the same way as those by private developers. This means that not all applications on Council owned land need to be considered by Committee. However, the planning decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council be seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

## **17 Member/Officer Relations and Planning Decisions**

- 17.1 The Head of Planning or the Planning Development Manager will always attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.
- 17.2 Other senior officers with appropriate professional and technical experience will also be present when an application has aspects relating to their professional expertise. Where the Council's professional experts, such as environmental health officers or highway engineers, attend Committee to ensure that appropriate advice can be given and discussed with their assistance, Members must give due weight to such advice. It is the obligation of such officers to give considered and independent advice for the benefit of the Council.

## **18 Review of Protocol**

18.1 This Code will be reviewed as necessary and at least every four years to take account of:

- new planning legislation
- changes to national codes of conduct
- emerging examples of good practice

## CONSTITUTION UPDATE - REVISIONS TO PART 1, 2 AND 4

**Head of Service/Contact:** Amardip Healy, Chief Legal Officer

**Annexes/Appendices (attached):** **Annex 1:** Part 1

**Annex 2:** Part 2

**Annex 3:** Part 4

**Other available papers (not attached):**

### Report summary

This report updates and proposes changes to Parts 1, 2 and 4 of the Constitution.

### Recommendation (s)

The Committee is asked to:

- (1) consider the proposed changes to Part 1, 2 and 4 of the Constitution as set out in Annexes 1-3, and
- (2) approve changes to Part 1, 2 and 4 of the Constitution, along with any other changes which may be agreed, to Council.

## 1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Good Corporate Governance underpins delivering the Council's Key Priorities.

## 2 Background

- 2.1 A comprehensive review of the current Constitution is currently underway to ensure that it complies with all relevant statutory requirements, and its processes and procedures meet the needs for organisational efficiency and achieve good governance.

- 2.2 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner. Some of the content of the Constitution is required by law; the remainder is for the Council itself to determine. The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, and structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.
- 2.3 Work started on Part 3 and on the Protocol for Managing Member/Officer relations (in Part 5), which Council approved on the 17 July 2018. Changes to Part 4 were approved by Council in December 2018. As a result of changes to Part 4, an additional Protocol was added to Part 5 (the Protocol and Guidance on recording, photography & use of social media). In April 2019 changes were made to sections of Part 5 with a new Code of Conduct for Members and general updating of other sections within this Part. The Committee were advised that the Model Code of planning practice was under review (Section 8). This review has been completed and is the subject of a separate report on this agenda.

### **3 Proposals**

- 3.1 There are a range of changes proposed to Parts 1, 2, and 4 of the Constitution.
- 3.2 Most of the suggested changes are around updating references and titles. The new material is as follows:

#### **Part 1 Summary & Explanation**

General updating

#### **Part 2 Articles of the Constitution**

General updating

Article 4 – role of Council and policy framework

Article 7 – details of Council Committees updated

Article 13 – updating sealing of documents arrangements to allow Authorised Officer to sign as a lone signatory. Members are asked to consider removing the need for a Mayor to sign entirely;

- removed the provision of a printed copy of the Constitution to each Member;

- updated the petition scheme to read in the 3<sup>rd</sup> person.

Article 17- new Article including the appointment of Champions.

#### **Part 4 – Rules of Procedure**

FCR 16 - Changes to allow the Mayor to ask if the meeting wishes to refer a motion to a Committee;

- Changes to process to allow a proposed amendment to be accepted without debate by the original motion proposer;

- 3.3 Some members have asked for a review over whether questions on agenda items from the public should be permissible. Standing Orders were amended last year to prevent public questions being raised on agenda items. The focus of public questions was directed at those matters which affected the public at large more generally rather than about matters the Council was seeking to make decisions on. The use of question time, was effectively being employed to make general public statements on agenda items. Members are asked to consider if they wish to bring forward any changes to the current standing orders, which can be found at CPR1.

#### **4 Financial and Manpower Implications**

- 4.1 There are no financial implications for the purposes of this report.

- 4.2 **Chief Finance Officer's comments:** None for the purposes of this report.

#### **5 Legal Implications (including implications for matters relating to equality)**

- 5.1 Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep the Constitution up to date and regularly review it. There are no specific equality implications from the proposed amendments.

- 5.2 **Monitoring Officer's comments:** It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The process of updating the Constitution will ensure it fulfil its stated purpose, as set out in Article 1.

#### **6 Sustainability Policy and Community Safety Implications & Partnerships**

- 6.1 There are no implications of the purposes of this report.

#### **7 Risk Assessment**

- 7.1 The Council needs a sound Constitution that is kept up-to date and fit for purpose. By adhering to the rules and guidance set out in the Constitution, Officers and Members alike protect themselves from risk of challenge.

**8 Conclusion and Recommendations**

- 8.1 The changes to the Constitution are being taken in sections and a further review of the whole document will be undertaken when all parts have been individually reviewed. Accordingly, the recommendations in the body of the report are commended to the Committee. If approved a report will be taken to the next Council meeting seeking approval and adoption of the changes to Parts 1, 2 and 4.

**Ward(s) affected:** (All Wards);



# **PART 1**

## **Summary and Explanation**

**V1 25.10.2019**

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1 The Council's Constitution

- 1.1 Epsom and Ewell Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into ~~seventeen~~ (17) Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols set out in Parts 3 to 5 of the Constitution.
- 1.3 In accordance with the Localism Act 2011, the Council operates a committee system as its form of governance. This preserves the opportunity for all Councillors to be directly involved in decision-making.

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2 What is in 'The Constitution'?

- 2.1 **Article 1** of the Constitution commits the Council to delivering its priorities, providing clear leadership in partnership with local people, businesses and others with a stake with the wellbeing of Epsom & Ewell Borough. It explains the rights of the citizens and how the key parts of the Council operate. These are:
- (a) Members of the Council (Councillors) (Article 2)
  - (b) Citizens and the Council (Article 3)
  - (c) The Council (Article 4)
  - (d) The Mayor (Article 5)
  - (e) Overview and Scrutiny (Article 6)
  - (f) Policy and Regulatory Committees (Article 7)
  - (g) Standards Committee (Article 8)
  - (h) Area Committees (Article 9)
  - (i) Joint arrangements (Article 10)
  - (j) Officers (Article 11)
  - (k) Decision making (Article 12)
  - (l) Finance, contracts and legal matters (Article 13)
  - (m) Review and revision of the Constitution (Article 14)
  - (n) Suspension, interpretation and publication of the Constitution (Article 15)

Deleted: providing clear leadership to the community, actively involving citizens in decision-making and helping Councillors represent their constituents more effectively.

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(m) Petition Scheme (Article 16)

(n) Champions (Article 17)

**3 How the Council operates**

- 3.1 The Council is composed of 38 Councillors (otherwise called Members) elected every four years. There are 13 Wards of which one Ward has two Members representing it and the remaining 12 have three members per Ward. The overriding duty of Councillors is to the whole community in the Borough, but they have a duty and democratic accountability to their constituents in their Ward, including those who did not vote for them.
- 3.2 Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee assists and advises the Council, as deemed necessary, in meeting its duty to promote and maintain high standards of conduct.
- 3.3 All Members meet together as the Council. Meetings of the Council are normally open to the public. Here, Members decide the Council's overall policies and set the budget each year; settle the Council's main plans, like the Corporate Plan; approve the Council's contribution as a partner to the Community Strategy; and resolve any issues which would normally be decided by committees or officers except for their controversial nature.
- 3.4 The procedures for Council meetings are set in in Part 4.

**4 How decisions are made**

- 4.1 Decisions are made by the Council or by committees or senior officers of the Council under delegated authority. The Council has four policy committees responsible respectively for strategy and budget formulation; the environment and community safety; community and wellbeing; and licensing and planning policy issues. In addition, the Planning Committee deals with planning applications and related matters, Standards Committee deals with the ethical framework, and an Audit, Crime & Disorder and Scrutiny Committee deals with both scrutiny of the Council and also the Crime Reduction Partnership.
- 4.2 If the Council wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole.
- 4.3 Occasionally, a sub-committee will be set up for a specific purpose and time period but otherwise any working groups and panels will only have advisory functions - the committees referred to above will normally be the only ones making decisions.
- 4.4 Meetings of the Council's committees, sub-committees and panels are publicised well in advance and are open to the public except where personal or confidential matters are being discussed.

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**5 Overview and Scrutiny**

5.1 The ~~Audit, Crime & Disorder and Scrutiny Committee~~ supports the work of the policy committees and the Council as a whole. It reports to the Council. It allows citizens to participate in investigating matters of local interest. This can lead to reports and recommendations which advise the policy committees and the Council as a whole on its policies, budget and service delivery. Sometimes, it or another committee or panel will also examine the activities of other public bodies whose actions affect the well-being of the community.

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5.2 The ~~Committee~~ also monitors the decisions of the policy committees and can 'call-in' a decision which has been made but not yet implemented. This enables it to consider whether the decision is appropriate and may lead to a recommendation that the relevant committee or the Council should reconsider the decision.

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5.3 The Committee may be consulted by policy committees on forthcoming decisions and the development of policy although in most cases the policy committees will develop their own policy. The Audit, Crime & Disorder and Scrutiny Committee is responsible for ensuring that the Council complies with its duties concerning Best Value, in accordance with the Local Government Act 1999. It scrutinises the Council's financial and audit arrangements and must ensure that suitable arrangements are made to manage performance and deliver priorities.

5.4 The Committee can review or scrutinise decisions or other action taken by the local Crime and Disorder Reduction Partnership. It can make reports and recommendations to the policy committees or to Council on its findings.

5.5 Ward councillors can refer local crime and disorder matters which they have been unable to resolve to the Audit, Crime & Disorder and Scrutiny Committee for consideration under a process known as "councillor call for action".

## 6 Area Committees

6.1 The Council does not have Area Committees but has the power to create these in the future, following public consultation on their number, composition, function and delegated financial authority. It will only do this if it is satisfied that it will improve services and lead to more efficient, transparent and accountable decision-making.

## 7 The Council's Staff

7.1 The Council employs staff, by convention known as Local Government 'Officers', to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Codes of Conduct and a Protocol (see Part 5 of the Constitution) govern the relationships between Members and Officers.

## 8 Citizens' Rights

8.1 Citizens have a number of rights in connection with their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes and can be amended or extended by decision of the Council. The local Citizens' Advice Bureau can advise on individuals' legal rights.

8.2 Citizens have the right to:

- (a) vote at local elections, if they are registered;
- (b) contact their local Councillor(s) about any matters of concern to them;
- (c) access a copy of the Constitution;
- (d) attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- (e) inspect agendas and reports except where, for example, a report has been written about a confidential matter;
- (f) petition to request a referendum on a mayoral form of executive;
- (g) speak at committees – (See Part 4, Section 1(B));
- (h) complain to the Council under its internal complaints process;
- (i) complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly - however, they should only do this after raising the complaint with the Council and giving the Council a chance to respond;
- (j) complain to the Council's Monitoring Officer if they have evidence which they think shows that a Member has not followed the Council's Code of Conduct for Members;
- (k) inspect the Council's accounts and make their views known to the external auditor.

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8.3 Where members of the public use specific Council services they may have additional rights. These are not covered in this Constitution. The Council will also provide further opportunities for involvement through consultation and through invitations to participate in working groups or panels.

8.4 A statement of the rights of citizens to inspect agendas and reports and attend meetings is available at the Council's offices.

8.5 The Council welcomes participation by the Borough's citizens in its work.

Deleted: For further information on your rights as a citizen, please contact the Council's Head of Legal and Democratic Services (01372 732000).



## **PART 2**

# **Articles of the Constitution**

**V1. 25.10.2019**

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## ARTICLE 1 - The Constitution

### The Constitution

- 1.1 This Constitution, and all its appendices, is the Constitution of the Borough Council of Epsom and Ewell (hereafter referred to as 'the Council').

### Powers of the Council

- 1.2 The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### Purpose of the Constitution

- 1.3 The purpose of the Constitution is to:-

- (a) Enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
- (b) Support the active involvement of citizens in the process of local authority decision-making;
- (c) Help Councillors represent their constituents more effectively;
- (d) Enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
- (e) Create a powerful and effective means of holding decision-makers to public account;
- (f) Ensure that no one will scrutinise a decision in which he or she was directly involved;
- (g) Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) Provide a means of improving the delivery of services to the community.

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### Interpretation and Review of the Constitution

- 1.4 Where the Constitution permits the Council to choose between different courses of action, the Council will seek to exercise that choice in the way that it thinks will most closely achieve the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## ARTICLE 2 - Members of the Council

### Composition and Eligibility

- 2.1 **Composition:** The Council comprises 38 Councillors, (otherwise called Members). Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State.
- 2.2 **Eligibility:** Only registered voters of the Borough or those living, working or owning land in the Borough will be eligible to hold the office of Councillor.

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### Election and Terms of Members

- 2.3 **Election:** The regular election of Members will be held on the first Thursday in May (or whatever date is fixed by law) every four years (from 2003).
- 2.4 **Terms:** The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

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### Roles and Functions of all Councillors

- 2.5 **Key Roles:** All Members will:
- (a) Collectively be the ultimate policy-makers and carry out the principal strategic and corporate management functions, taking a Borough-wide view;
  - (b) Engage with and represent their communities, whose views they will bring into the Council's decision-making process and whose involvement and participation they will actively encourage;
  - (c) Represent the interests of their ward and where necessary balance different interests;
  - (d) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (e) Be involved in decision-making;
  - (f) Be available to represent the Council on other bodies;
  - (g) Maintain the highest standards of conduct and ethics, showing respect for fellow Members, officers and the community.

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### 2.6 **Rights and Duties:** Members will:-

- (a) Have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;

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- (b) Not make public any information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it;
- (c) No Member can issue an order for works to be carried out by or on behalf of the Council and nor can he/she, unless specifically authorised to do so, claim any right to inspect or enter any land.

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For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.

- 2.7 **Job Description:** ~~Members~~ are volunteers and bring a wide variety of skills and experience to the job of being a councillor. The multi-member ward structure of the Council provides the opportunity for individual councillors to specialise and use their particular skills and experience, working as part of a team for the benefit of the local community they represent, as well as the wider interest of the Borough as a whole.

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- 2.8 However, there is a core role, which the community and the Council as a whole expect of all ~~Members~~. This job description sets out that role under the six headings below.

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## Representing the local Ward Community

- (a) Seeking, and listening to, the views of individuals, voluntary groups and businesses within the ward and representing local ward community views;
- (b) Balancing conflicting views and expectations to present a considered view to the Council or other agencies which have an impact on that community;
- (c) Informing the local community about the work of the Council and helping it to take an informed view of the options that may be before the Council.

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## Representing Individuals and Groups

Whenever appropriate:-

- (a) Helping individuals, groups and businesses, to secure the appropriate services of the Council;
- (b) Helping individuals and groups to articulate their needs and have their case or their complaint heard, and when appropriate, presenting their case for them;

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## Representing the Whole Community

- (a) To take an overview of the needs and views of the whole community - residents, voluntary groups and businesses together;

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- (b) To balance long and short term needs and to promote the long term economic, social and environmental well being of the Epsom and Ewell community as a whole.

#### **Representing the Council**

- (a) Acting as an ambassador of the Council in the wider community to present its ambition, its policies and its views.
- (b) Where appointed to a particular position as the Council's representative on other public or voluntary bodies, to represent and secure the Council's policies through influence and formal partnership working in those bodies.
- (c) Building and maintaining relationships with the Council's partners.

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#### **A Local Politician**

- (a) To promote and represent the values and manifesto on the basis of which he/she has been elected in the decision making arrangements of the Council.
- (b) To support any political group or party to which he/she may belong in order to secure and maximise its support in local and other appropriate democratic elections.

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#### **Managing the Council and its Services (The Committee Role)**

- (a) As a member of the full Council, to set the Corporate Plan and to monitor the performance of its Committees.
- (b) As a member of a Council committee, sub-committee or panel, to manage the provision of the Council's services to the Community, in accordance with the Council's aims and objectives set out in its Corporate Plan.
- (c) To review the Council's performance in the provision of its policies and services and identify opportunities to provide better value to the community.

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## Conduct

- 2.9 Members will at all times observe the Members' Code of Conduct and will have regard to other documents such as the Codes of Conduct for Planning and Licensing matters and the Member/Officer Protocol set out in Part 5 of this Constitution.
- 2.10 The Council is required to maintain and update a Register of Interests of its Members. The Register is available for public inspection at the Council's offices and on the Council's website.

## Allowances

- 2.11 Members will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## ARTICLE 3 - Citizens and the Council

### Citizens' Rights

- 3.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- (a) **Voting and Petitions.** Citizens on the Register of Electors for the Borough have the right to vote in elections and to sign a petition to request a referendum for a form of Constitution with an elected Mayor. (A petition signed by 5% of those on the Register of Electors requires the Council to hold such a referendum).

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- (b) **Information.** Citizens have a right to:-

- Attend meetings of the Council and its committees, Sub-committees and Advisory Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- See reports and background papers, and any records of decisions made by the Council;
- Inspect the Council's accounts and make their views known to the external auditor.

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- (c) **Participation.** Citizens have the right to:-

- Present petitions to the Council
- Ask a question at committee meetings in accordance with agreed procedures;

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- Ask as supplementary question at the meeting provided it arises from the response to the original question.

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(d) **Complaints.** Citizens have the right to complain to the:

- Council itself under its complaints scheme;
- Local Government Ombudsman after using the Council's own complaints scheme;
- The Monitoring Officer about a breach of the Members' Code of Conduct.
- the Information Commissioner about a breach of the Council's obligations under the Data Protection act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2005.

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#### Citizens' Responsibilities

3.2 Citizens must not be violent, abusive or threatening to Members or Officers and must not wilfully harm property owned by the Council, Members or Officers. The Council will in appropriate cases be prepared to take action to protect its own rights and to support such action by its Members or Officers.

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## ARTICLE 4 - The Council

### The Role of the Council

4.1 To act as a forum where all Members can meet on a regular basis, act as a focus for the Council, discuss and debate issues of importance to the Borough and decide the Council's budgetary and policy framework.

#### **Policy Framework:**

4.3 The policy framework means plans and strategies, set out below which form the Policy Framework (subject to any variation that may from time to time be made in response to legislation). Any change to the Framework which is necessary as a result of changes in legislation will be incorporated into this Constitution by the Monitoring Officer without the need for the agreement of Full Council.

4.1 The policy framework includes the following plans and strategies:-

(a) Mandatory (required by law)

- Local Development Framework and Local Area Action Plans <sup>1</sup>
- Statement of Licensing Policy <sup>2</sup>

<sup>1</sup> Section 15 Planning and Compulsory Purchase Act 2004.

- Statement of Gambling Policy<sup>3</sup>
- Crime & Disorder Reduction Strategy<sup>4</sup>
- Pay Policy Statement

(b) Discretionary (as recommended by the Secretary of State)

- Corporate Plan

(c) Discretionary (as decided by Full Council to be adopted as such)

- Housing Strategy
- Equalities Statement
- Health & Wellbeing Strategy

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## Budget.

4.2 Council has responsibility for the budget framework which includes:-

- The allocation of financial resources to different services and projects;
- Any proposed contingency funds;
- Setting the Council Tax;
- Decisions relating to the control of the Council's borrowing requirement;
- The control of capital expenditure;
- The setting of limits to the amounts by which committees and officers can transfer expenditure between different budget heads (virement).

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**CPA Improvement Plan;¶**

**Best Value Performance Plan;¶**

**Community Strategy;¶**

**Crime and Disorder Reduction Strategy;¶**

**Plans and strategies which together comprise the Development Plan (principally, this is the Epsom and Ewell District Wide Local Plan);¶**

**Sustainable Development Strategy;¶**

**Housing Strategy (including Housing Investment Programme);¶**

**Leisure (Cultural) Strategy;¶**

**Health Strategy;¶**

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## Functions of the Council

4.2 Only Council will exercise the following functions:-

- Adopting and changing the Constitution;
- Approving and adopting the Policy Framework, the Budget and the annual Council tax requirements, and any application to the Secretary of State in respect of any housing land transfer;
- Making decisions about any matter relating to the discharge of a function covered by the policy framework or budget where a decision would be contrary to the policy framework or contrary or not wholly in accordance with the budget;

<sup>2</sup> Section 5 -Licensing Act 2003

<sup>3</sup> Section 349 Gambling Act 2005

<sup>4</sup> Sections 5 & 6, The Crime and Disorder Act 1998,

- (d) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them (except for authorised substitutions in accordance with the relevant Rules of Procedure in Part 4 of the Constitution);
- (e) Appointing annually the Mayor;
- (f) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (g) To create, amend or dissolve committees (including joint committees) of the Council and to determine the terms of reference of such committees and to appoint members to serve on its committees;
- (h) Delegating functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (i) Adopting a Members' Allowance Scheme;
- (j) Changing the name of the Borough;
- (k) Conferring the title of Honorary Alderman or Honorary Freeman;
- (l) Confirming the appointment, redundancy or early retirement of the Chief Executive;
- (m) Determining any delegation to officers which does not fall with the purview of any committee;
- (n) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (o) Determining the level of disciplinary action or dismissal of specified statutory senior officers;
- (p) Appointing the Independent Person;
- (q) Adopting the Members' Code of Conduct and the arrangements for dealing with complaints;
- (r) To consider those matters referred to it from time-to-time by scrutiny committees and by other Council committees;

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(s) To consider petitions which are referred to Full Council under the Petition Scheme;

(u) All other matters which by law must be reserved to Council.

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**Council Meetings**

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4.3 There are three types of Meetings of the full Council:

- (a) the Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

**ARTICLE 5 - The Mayor**

**Role and function of the Mayor**

5.1 The Mayor and the Deputy Mayor will be elected by the Council annually.

5.2 The Mayor, and in his/her absence the Deputy Mayor, will be the first citizen of the Borough and have the following roles and functions, to:-

- (a) Uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) Preside impartially over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;

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5.3 Should the Mayor wish, in exceptional circumstances, to take part in debate on an issue before the Council, he/she should vacate the Chair for the whole of that item in favour of the Deputy Mayor;

5.4 Ensure that Council meetings are a forum for the debate of matters of concern to the local community;

5.5 Promote public involvement in the Council's activities;

5.6 Attend such civic and ceremonial functions as the Council and/or he/she considers appropriate;

5.7 Promote the Council as a whole and act as a focal point for the community.

## ARTICLE 6 - Overview and Scrutiny

### Functions

- 6.1 The Council will appoint a committee to discharge the scrutiny and review functions conferred by Section 21 of the Local Government Act 2000 and regulations made under Section 32 of the Local Government Act 2000 in relation to the following matters:
- (a) Local democracy and the achievement of effective, transparent and accountable decision making by the Council;
  - (b) The Council's budget, the management of its budget, capital programme, revenue borrowing and assets and its audit arrangements;
  - (c) The social, economic and environmental well-being of the Borough;
  - (d) The provision, planning, management and performance of all Council services;
  - (e) The Council's compliance with its duty concerning Best Value, in accordance with the Local Government Act 1999.
- 6.2 The Council will appoint a committee to discharge the scrutiny and review functions conferred by Section 19 and Schedule 8 of the Police and Justice Act 2006 and regulations made under Section 20 of the Police and Justice Act 2006 in relation to the Crime and Disorder Reduction Partnership.
- 6.3 The functions detailed within sections 6.1 and 6.2 above are discharged by the Council's Audit, Crime & Disorder and Scrutiny Committee.

### Terms of Reference

- 6.4 The terms of reference for the Audit, Crime & Disorder and Scrutiny Committee are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.
- 6.5 Within its terms of reference, the Committee will:
- (a) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (b) Make reports and/or recommendations to the Council and/or any Committee in connection with the discharge of any functions;
  - (c) Consider any matter affecting the area or its inhabitants,
  - (d) Exercise the right to call-in, for reconsideration, decisions made by any policy committee but not yet implemented by any policy committee.



- (e) Review and/or scrutinise decisions made or action taken in connection with the discharge by the Crime and Disorder Reduction Partnership of its crime and disorder functions;
- (f) Make reports and/or recommendations to the Council and/or any appropriate committee in connection with the discharge of the Crime and Disorder Reduction Partnership functions, providing a copy to the responsible authorities and co-operating persons and bodies of the Crime and Disorder Reduction Partnership;
- (g) Consider “councillor calls for action” concerning local crime and disorder matters in accordance with the Councillor Call for Action Protocol.
- (h) Make reports and/or recommendations to Council or any appropriate policy committee in relation to a councillor call for action concerning a local crime and disorder matter, providing a copy to the member concerned and to members of the CDRP as it thinks appropriate

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**Annual reports**

- 6.6 The Audit, Crime & Disorder and Scrutiny Committee will report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

**Officers**

- 6.7 The Audit, Crime & Disorder and Scrutiny Committee will exercise overall responsibility for the work programme of those officers whose function is wholly to support its work, and of other officers in so far as they support that work.

**Proceedings of Audit, Crime & Disorder and Scrutiny Committee**

- 6.8 The Audit, Crime & Disorder and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

**ARTICLE 7 - Policy and Regulatory Committees**

**Policy Committees**

- 7.1 The Council will appoint four policy committees as follows:

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- (a) Community & Wellbeing
- (b) Environment & Safe Communities
- (d) Strategy and Resources
- (e) Licensing and Planning Policy

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(c) Leisure

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- 7.2 The functions attributed to those committees are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.

#### Regulatory Committees

- 7.3 The Council will appoint a Planning Committee, which will be responsible for dealing with planning applications and related matters.
- 7.4 The Licensing and Planning Policy Committee will appoint Licensing (Hearings) Sub Committees to be responsible for issuing premises and personal Licences and a Licensing (General) Sub Committee for purpose of hearing appeals on both premises and vehicle licences.
- 7.5 The functions of these Committees are set out in Part 3 of this Constitution entitled 'Responsibility for Functions'.

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### ARTICLE 8 - The Standards Committee

#### Standards Committee

- 8.1 The Council has chosen to appoint a Standards Committee in accordance with the Localism Act 2011.

#### Composition

- 8.2 The Standards Committee will be politically balanced. Full Council will appoint an independent person or a panel of such, to advise it and any member when matters of conduct arise.

#### Roles and Functions

- 8.3 The Standards Committee will have the functions set out in its Terms of Reference (see Part 3: Responsibility and Functions).

#### Arrangements for dealing with standards allegations under the Localism Act 2011

- 8.4 All hearings and assessments of complaints against Members will be conducted in accordance with the current legal requirements and (subject to that) the provisions set out in Part 4 of this Constitution.

## ARTICLE 9 - Area Committees

### Area Committees

- 9.1 The Council may appoint Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision making.
- 9.2 In the event that the Council decides after consultation to create any Area Committee (s) it will include, within a scheme approved for that purpose, provision for their form, composition and function; for the avoidance of conflicts of interest through membership of other committees; and for access to information.

## ARTICLE 10 - Joint Arrangements

### Arrangements to promote Wellbeing

- 10.1 The Council, in order to promote the economic, social or environmental wellbeing of its area may, subject to the other provisions of this Constitution:-
- (a) Enter into arrangements or agreements with any person or body;
  - (b) Co-operate with, or facilitate or coordinate the activities of any person or body;
- and
- (c) Exercise on behalf of that person or body any functions of that person or body.

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### Joint Arrangements

- 10.2 The Council may establish joint arrangements with one or more local authorities to exercise functions of any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- 10.3 Details of any joint arrangements, including any delegations to Joint Committees, will be found in Part 3 of this Constitution.

### Access to Information

- 10.4 The Access to Information Rules in Part 4 of this Constitution apply.
- 10.5 If the Joint Committee contains Members who are not on the executive of any participating local authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### Delegation to and from other local authorities

- 10.6 The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority and also accept such a delegation from another local authority.
- 10.7 The decision whether or not to delegate functions to another local authority or to accept such a delegation from another local authority shall be reserved to the Council.

### Contracting Out

- 10.8 The Council may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994.
- 10.9 The Council may also arrange for other functions to be carried out by a contractor, where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## ARTICLE 11 - Officers

*NOTE: 'Officers' means all employees and staff engaged by the Council to carry out its functions*

### Management Structure

- 11.1 **General.** The Council may engage such officers as it considers necessary to carry out its functions.

**11.2 Directors.** The Council will engage persons for the following posts, who will be designated Directors:

**11.2.1 Chief Executive, designated the Head of Paid Service**

**11.2.2 Chief Operating Officer**

**11.3 The functions and responsibility of the Chief Executive and Head of Paid Service are:**

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Post	Areas of Responsibility
Chief Executive	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Provision of professional advice to all political groups and individual Members</p> <p>Together with the Monitoring Officer, responsibility for a</p>

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Post	Areas of Responsibility
	<p>system of record keeping for all the Council's decisions</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council)</p>

11.3 **Head of Paid Service, Chief Finance Officer and Monitoring Officer.** The Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service (Local Government & Housing Act 1989, Section 4)
<u>Chief Legal Officer</u>	Monitoring Officer (Local Government & Housing Act 1989, Section 5)
<u>Chief Finance Officer</u>	Chief Finance Officer (Local Government Act 1972, Section 151; Local Government Finance Act 1988

The posts will have the functions described in Article 11.5 to 11.16 below.

11.4 **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## Functions of the Chief Executive (Head of Paid Service)

11.5 **Discharge of Functions by the Council.** The Chief Executive will report to the Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers proposed for the discharge of functions and the organisation of officers.

## Functions of Chief Finance Officer (Section 151 Officer)

11.6 **Ensuring lawfulness and financial prudence of decision making.** After consulting the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

11.7 **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

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11.8 **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

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11.9 **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.

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11.10 **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

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## **Functions of the Chief Legal Officer (Monitoring Officer)**

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11.11 **Maintaining an up-to-date Constitution.** The Monitoring Officer will ensure that an up-to-date version of the Constitution is maintained and will ensure that it is available to Members, staff and the public.

11.12 **Ensuring lawfulness and fairness of decision making.** After consulting the Chief Executive and Chief Finance Officer, the Monitoring Officer has a duty, by virtue of Section 5 of the Local Government and Housing Act 1989, to report to the Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered by the Council.

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11.13 **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

11.14 **Conducting Investigations.** The Monitoring Officer will conduct investigations into allegations against Members made to the Council and arrange, if necessary, for the Standards Committee to receive reports or recommendations in respect of them.

11.15 **Proper Officer for Access to Information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

11.16 **Providing Advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.

**Provision of sufficient resources to the Chief Executive, Chief Finance Officer, and Monitoring Officer.**

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11.17 The Council will provide the Chief Executive, the Chief Finance Officer and the Monitoring Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

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### **Conduct**

11.18 Officers will comply with the Officers' Code of Conduct and other relevant Codes and Protocols, in particular, the Member/Officer Protocol set out in Part 5 of this Constitution.

### **Employment**

11.19 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **ARTICLE 12 - Decision Making**

### **Responsibility for decision-making**

12.1 The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 in this Constitution.

### **Principles of Decision Making**

12.2 All decisions of the Council will be made in accordance with the following principles:-

- (a) the decision should not be in conflict with the Council's Key Priorities and strategies;
- (b) the decision complied with Council Standing Orders, Contract Standing Orders and Financial Regulations;
- (c) the decision has a clear desired outcome and that any agreed action is proportionate to the outcome;
- (d) the decision has taken account of professional advice from officers, including the Monitoring Officer and the Chief Financial Officer and/or appropriate qualified consultants;
- (e) the decision has taken account of the provisions of the human rights legislation;

- (f) the decision was taken in an open and transparent manner unless otherwise legally permitted and unless the circumstances require the matter to be kept confidential;
- (h) the decision was taken after due consultation and, where appropriate, the views of the local ward members have been sought

#### **Decision making by the Council**

- 12.3 Subject to Article 12.6 the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **Decision making by Audit, Crime & Disorder and Scrutiny Committee**

- 12.4 The Audit, Crime & Disorder and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **Decision making by other Committees and Sub-Committees**

- 12.5 Subject to Article 12.6, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution which apply to them.

#### **Decision making by Council bodies acting as Tribunals**

- 12.6 The Council, a committee, a sub-committee or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

### **ARTICLE 13 - Finance, Contracts and Legal Matters**

#### **Financial Management**

- 13.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

#### **Contracts**

- 13.2 Every contract made by the Council will comply with the Financial Standing Orders (including Standing Orders relating to Contracts) set out in Part 4 of this Constitution.



Legal Proceedings

13.3 The ~~Chief Legal Officer~~ is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

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Custody of Seal

13.4 The Common Seal of the Council shall be kept in some safe place and shall be secured by a lock and the keys shall be kept in some safe place by the ~~Chief Legal Officer~~.

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Sealing of Documents

13.5 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of a committee or officer to which the Council has delegated its powers in this behalf, but a resolution of the Council (or of a committee or an Officer where that committee or officer has the power) authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

13.6 The seal shall be attested, ~~if signed~~ by the Mayor (or Deputy Mayor) ~~then also by an Authorised Officer, (namely the Chief Executive or the Chief Legal Officer), or can be attested by a single Authorised Officer (namely the Chief Executive or the Chief Legal Officer or a duly authorised officer nominated by them on their behalf)~~, and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person ~~or persons~~ who shall have attested the seal.

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Signature of Documents

13.7 Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or unless the Council or a committee, or sub-committee to which the Council has delegated its powers, has given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Executive or the ~~Chief Legal Officer~~.

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ARTICLE 14 - Review and Revision of the Constitution

Duty to monitor and review the Constitution

- 14.1 The Monitoring Officer will ensure that the operation of the Constitution is monitored and reviewed to ensure that the aims and principles of the Constitution are given full effect and will report to the Council on this at least once every year.

#### Changes to the Constitution

- 14.2 **Approval.** Changes to the Constitution will only be approved by the Council after consideration of a proposal from the Standards Committee (in respect of the Council's Rules of Procedure and matters relating to the ethical framework or as deemed appropriate by the Monitoring Officer), Chief Executive or the Monitoring Officer or by way of Councillors proposing a motion on notice in accordance with the Council Procedure Rules set out in Part 4 of this Constitution.
- 14.3 **Change from alternative arrangements to a form of executive.** If at any time the Council decides to change from alternative arrangements, it must take reasonable steps to consult local electors and other interested persons in the Borough when drawing up proposals.

### ARTICLE 15 - Suspension, interpretation and publication of the Constitution

#### Suspension of the Constitution

- 15.1 **Limit to suspension:** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council or committees to the extent permitted within those Rules and the law.
- 15.2 **Procedure to suspend:** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of the Council or the relevant Committee are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- 15.3 **Rules capable of suspension:** The following Rules may be suspended in accordance with Article 15.1:-
- (a) The Council Procedure Rules (as specified in those Rules);
  - (b) Financial Procedure Rules;
  - (c) Contract Procedure Rules.

## Interpretation

- 15.4 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1, and to any advice given by the Chief Executive.

## Publication

- 15.5 The Chief Executive will ~~ensure each Councillor has access to the Council's~~ Constitution ~~on~~ that individual's declaration of acceptance of office on the Councillor first being elected to the Council.
- 15.6 The ~~Chief Legal Officer~~ will ~~make available a copies~~ for inspection at Council offices, and ~~for purchase~~ by members of the local press and the public on payment of a reasonable fee.
- 15.7 The ~~Chief Legal Officer~~ will ensure that the summary of the Constitution is made ~~available~~, ~~by~~ electronic means, within the Borough and is updated as necessary.

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## ARTICLE 16 - ~~Petition Scheme~~

### Petitions

- 16.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out ~~how the petition will be administered.~~

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- 16.2 Paper petitions can be sent to:

Chief Legal Officer  
Epsom and Ewell Borough Council  
The Town Hall  
The Parade  
Epsom  
Surrey  
KT18 5BY

- ~~16.3 Petitions can be submitted on line through the on line portal.~~

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- 16.4 Petitions can also be presented to a meeting of the Council. There are normally four ordinary meetings every year. ▽

**Deleted:** If you would like to present your petition to the Council, or would like your Ward Councillor or someone else to present it on your behalf, please contact Legal and Democratic Services on 01372 732000 at least 5 working days before the meeting and an officer will talk you through the process.

### What are petitions?

- 16.5 A petition is a communication that is signed by or sent to the Council on behalf of a number of people. There are different types of petitions:

- (a) **Ordinary Petitions:** These are petitions that do not fall within the other two categories set out below and will normally relate to the day-to-day services or facilities provided by the Council. Such petitions must be signed by at least 20 signatories.
- (b) **Petitions for debate:** If a petition calls for something to be reported to and discussed at a meeting of the full Council, it must contain at least 1,500 signatures
- (c) **Petitions calling for an officer to give evidence:** If a petition calls for an officer to give evidence at a meeting of the Audit, Crime & Disorder and Scrutiny Committee, and to answer questions on a specific issue, it must contain at least 800 signatures.

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#### Petitions not covered by this Scheme

16.6 The following petitions will not be accepted by this Council:

- The subject matter of the petition is deemed likely to cause distress, disruption or irritation without any proper or justified cause.
- The subject matter of the petition relates to a matter which upon which legal proceedings are possible
- The petition relates to an individual member of the community or the personal circumstances of councillors or Council employees.
- Petitions made under any enactment other than the Local Democracy, Economic Development and Construction Act 2009
- The subject matter of the petition is about something for which this Council is not responsible or cannot influence
- Petitions about a planning decision, including a development plan document, any matter relating to a licensing decision

16.7 If the Council decides that a petition does not fall within this scheme, the petition organiser will be informed and given the reason why it is not being accepted.

16.8 In addition, a petition will not normally be considered if it is received within six months of another petition on the same matter. If two or more petitions on the same subject are received at the same time, each will be treated as a separate petition but only the organiser of the first petition received will be invited to address the relevant meeting.

## Guidelines for submission,

16.9 The Council will accept a petition if is signed by the required number of people who live, work or study in the Borough. A petition submitted to the Council must include:

- a clear and concise statement covering the subject of the petition;
- what action the petitioners would like the Council to take;
- the name, address and signature of any person supporting the petition.

16.10 Petitions must be accompanied by contact details, including an address for the petition organizer with whom the Council will correspond,

16.11 The contact details of the petition organiser will not be placed on the Council's website. If the petition does not identify a petition organiser, the Council will contact signatories to the petition to agree who should act as the petition organiser.

16.12 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. The period immediately before an election or referendum may require the presentation of a petition to Council or a Council meeting to be delayed,

16.13 If a petition does not follow the guidelines set out above, the Council may decide not to process the petition and will advise the petition organizer accordingly.

## Actions on receipt of petition,

16.14 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition, with an explanation of next steps. It will also be published on our website.

16.15 If the action requested by the petition can be taken, confirmation of such will be sent and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and details of the meeting will be sent to the petition organiser. If the petition needs more investigation, the petition organiser will be advised accordingly,

16.16 If the petition is about a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor) or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

16.17 The Council will not take action on any petition which is consider to be vexatious, abusive or otherwise inappropriate, and reasons for this in the acknowledgement of the petition.

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16.18 ~~P~~etitions ~~received~~, will be published on our website, except in cases where this would be inappropriate. Whenever possible, ~~the Council~~ will also publish all correspondence relating to the petition (all personal details removed). ~~Signatories to a~~ e-petition, ~~can elect to receive this information by email.~~

**~~Council's response to petitions~~**

16.19 ~~The Council's~~ response to a petition will depend on what a petition asks for and how many people have signed it but may include one or more of the following:-

- ~~T~~aking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an enquiry into the matter
- Undertaking research into the matter
- ~~H~~olding a public meeting
- ~~H~~olding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Audit, Crime & Disorder and Scrutiny Committee \*
- Writing to the petition organiser setting out our views about the request in the petition

**\*Note:** The Audit, Crime & Disorder and Scrutiny Committee is a Committee responsible for scrutinising the work of the Council – in other words it has the power to hold the Council's decision makers to account.

16.20 If ~~a~~ petition is about something that a different council or body is responsible for, ~~the Council~~ will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council or body but could involve other steps. In any event, ~~the Council~~ will always notify ~~the petition organizer~~, of the action ~~taken~~.

**Full Council debates**

16.21 If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior Council officer to give evidence at a public meeting.

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16.22 This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting. The Council will decide how to respond to the petition at this meeting. **Council** may decide to take the action the petition requests, not to take the action for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

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**Officer evidence**

16.23 A petition may ask a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

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16.24 If a petition contains at least 800 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Scrutiny or Crime and Disorder Committee, as appropriate. The senior staff who can be called to give evidence are:

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- The Chief Executive
- Monitoring Officer
- Chief Operating Officer
- Chief Finance Officer
- Any deputies who report directly to those officers

16.25 The Audit, Crime & Disorder and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, the petition organiser but you will be able to suggest questions to the chair of the committee by contacting the Scrutiny Officer up to three working days before the meeting.

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**E-Petitions**

16.26 Petitions can be created and submitted through the Council's website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide their name, postal address and e-mail address. The petition organiser will also need to decide how long they would like their petition to be open for signatures. Most petitions run for six months but can choose a shorter or longer timeframe, up to a maximum of twelve months.

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16.27 When an e-petition is created, it may take five working days before it is published online, to enable the Chief Legal Officer to check that the content of the petition is suitable before it is made available for signature. If the petition cannot be published the petition organiser will be advised as to the reasons. The petition organiser will be able to change or re-submit their petition if they wish. The Council will within 10 working days or rejecting a petition publish a summary of the petition and the reason why it has not been accepted will be published under the "rejected petitions" section of the website.

16.28 If an e-petition is accepted, the petition organiser will receive an acknowledgment within 10 working days.

16.29 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement will also be published on this website.

## Review of rejected Petition

16.30 If a petition organizer feels that the Council have not dealt with their petition properly, the petition organiser has the right to request that the Council's Audit, Crime & Disorder and Scrutiny Committee, to review the steps that the Council has taken in response to the petition. Such request for a review must provide a short explanation of the reasons why the Council's response is not considered to be adequate.

16.31 The designated Committee will endeavour to consider the review request within 30 days of receiving it. Should the Committee determine that the petition has not been adequately dealt with, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendation to the appropriate Committee or arranging for the matter to be considered at a meeting of the full Council.

16.32 Once the review has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

## ARTICLE 17 - Champions

### Appointment of Champions

17.1 At its discretion the Council may from time to time designate Champions from amongst its Members to explore and represent the interests of specific issues and groups.

### Term of Office

17.2 Members who are designated as Champions shall hold officer until:

17.2.1 They resign from officer;

17.2.2 They are no longer Members

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17.2.3Until the commencement of the next Annual Meeting of the Council  
except that the Council may remove from officer at its discretion

**Role & Functions**

17.3 To act as a positive focus for the local community at elected member level in  
respect of the relevant section of the community or range of activities  
designated by the Council. Champions focus on their area of responsibility by

17.3.1 Raising the profile and demonstrating the Council's commitment to the  
issues or activities;

17.3.2Promoting effective communication and positive working relationships  
both within the Council and amongst partners, stakeholders and  
community groups;

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# PART 4

## Rules of Procedure

V1 25.10.2019

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## SECTION 1 – Council Rules of Procedure

Issued: July 2002; 2<sup>nd</sup> Revision July 2012; 3<sup>rd</sup> December 2018

### Introduction

The purpose of these Rules of Procedure (often referred to as the ‘Standing Orders’) is to regulate the proceedings and business of the Council, Committees, Sub Committees and Advisory Panels of the Borough of Epsom and Ewell to ensure that the Council’s business is carried out transparently and in accordance with good governance. The Rules are there to guide and assist Members with good decision making. They should not be used to obstruct the process of working efficiently and effectively.

### Definitions

In these Rules of Procedure the following terms have the following meanings. However, if in order to make sense of a passage a different meaning needs to be attributed to a word or phrase, then that meaning may be given.

Annual Meeting	means the first ordinary meeting of the Council of each municipal year
Advisory Panel	refers to bodies which report as required to the appropriate committee as set out in their Terms of Reference
Budget Decision	means for the purposes of the FCR any decision defined as such under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 or such successor provision
Council	means Epsom and Ewell Borough Council or one or more of its Committees, Sub-Committees, Advisory Panels or Officers acting on the Councils behalf, using powers which have been lawfully delegated as the context requires
CPR	means Committee Rule of Procedure, the rules which regulate the proceedings and business of meetings of the Committees, Sub Committees and Advisory Panels of the Council of the Borough of Epsom and Ewell

Chairman	means the Member currently appointed or elected to chairman of a Committee, Sub-Committee or Advisory Panel or appointed as such for a Council meeting
Chief Executive	refers to the Council's Head of Paid Service, designated under Section 4 of the Local Government and Housing Act 1989
Committee	refers to a committee of the Council (whether a policy or regulatory committee) unless a distinction is made in the relevant Standing Order
Constitution	means the Council's Constitution under Section 37 of the Local Government Act 2000
Council	means Epsom and Ewell Borough Council acting by the Council
Chief Finance Officer	refers to the Council's Chief Finance Officer designated under section 151 of the Local Government Act 1972
Deputy Mayor	the Member elected to be the Deputy Mayor of Epsom and Ewell Borough Council
FCR	means Full Council Rule of Procedure, the rules which regulate the proceedings and business of meetings of the Council and which may be referred to as 'Standing Orders'
Group	means a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990
Mayor	the Member elected to be Mayor of Epsom and Ewell Borough Council
Meeting	A meeting of the Council, a committee, sub-committee or advisory panel

Member	means a Member of the Council, in relation to any committee, sub-committee, advisory panel or joint committee or any outside body as appropriate, it means a person who has been appointed to such whether or not they are entitled to vote and where the context so requires, the reference will refer to the appointed member of such committee, sub-committee, advisory panel or joint committee and not a member who may be substituting for such absent member
Monitoring Officer	means the Chief Legal Officer as the person designated as monitoring officer under section 5 of the Local Government and Housing 1989. If that person is unable to act owing to absence or illness, the expression means a person nominated as his deputy under subsection (7) of that section
Officer	means an employee of the Council
Petition	means a Petition falling within the Petition Scheme (Article 16)
Policy Committee	is a collective term for one or more of the Council's policy committees as described in Part 3 of the Constitution
Standing Orders	refers to the FCR or CPR as the context may require
Sub-committee	refers to a sub-committee of a committee
Vice Chairman	means the Member currently appointed or elected to vice chairman of a Committee, Sub-Committee or Advisory Panel
Working Day	means any day on which the Town Hall, Epsom is open to the public, excluding Saturdays, Sundays and Bank Holidays

As long as the context of a passage allows:



- Singular expressions include plural meanings;
- Plural expressions include singular meanings;
- Masculine references include feminine meanings;
- Feminine references include masculine meanings

**General**

- 1 Unless otherwise stated in these rules of procedure or statute, where anything in these Rules of Procedure is required to be done in writing, this will include by email.
- 2 A rule, or part of a rule, may not be suspended or revoked if it is a statutory requirement or the operation of Standing Orders does not permit a suspension. It is not necessary for the exact words of the statute to be repeated in a rule. Any of the other rules may be suspended by the Council by agreeing a motion to that effect provided that either:
  - (a) A notice of motion has been given under Standing Orders including an intention to suspend the Council's rules of procedure; or
  - (b) A motion has been moved under Standing Orders which can be moved without notice and at least two thirds of the whole number of members of the Council is present.
- 3 For the avoidance of doubt, if there is any conflict in the operation or application of Standing Orders, the matter will be determined by the Mayor or Chairman, whose decision on the matter will be final.
- 4 All references to the Mayor and Chairman of a meeting will include the Deputy Mayor and Vice Chairman as the context so requires or is deemed necessary, where such sits in the absence or in the place of the Mayor or Chairman.

**Section 1(A) Standing Orders of the Council**

**FCR 1 - Calling a meeting**

- 1.1 The Council will meet on such dates each year as are agreed when the calendar of meetings is approved or amended (ordinary meetings) or as required.
- 1.2 The Annual Meeting shall normally be held on an appropriate date in May at 19.00 hours.
- 1.3 A meeting of the Council can be called at any time by the Mayor (an extraordinary meeting).
- 1.4 The Chief Executive, Chief Finance Officer and Monitoring Officer can each at any time direct that a meeting of the Council be called (an extraordinary meeting).
- 1.5 Any five members acting together may direct that a meeting of the Council be called (an extraordinary meeting). The members shall first send a joint written request asking the Mayor to call a meeting (the request should be sent to the Chief Legal Officer). If the Mayor refuses or does not call a meeting within seven days after receiving the request, the members may direct the Chief Legal Officer to do so forthwith. The request shall set out the business to be considered at the meeting.
- 1.6 In relation to every meeting, the Chief Legal Officer shall send to all members a Summons to the meeting at least five clear working days before the day of the meeting.
- 1.7 The Summons shall specify the business proposed to be transacted at the meeting to which it relates.
- 1.8 Unless the contrary is set out in the Summons, meetings of the Council shall begin at 1930 hours and shall be held in the Council Chamber at The Town Hall in Epsom.

**FCR 2 - Order of business**

- 2.1 At the Annual Meeting, the order of business shall be as follows:
  - a) appointment of the Mayor;
  - b) appointment of the Deputy Mayor;
  - c) to receive any declarations of interest;
  - d) consideration of the minutes of the previous meeting(s);

- e) any business required by statute to be done;
- f) approval of the Constitution, with or without changes;
- g) appointments to Committees (including any Joint Committees), Sub-Committees and Panels in accordance with the political balance rules as appropriate;
- h) appointments of Committee, Sub-Committee and Panel Chairmen or confirmation of such if such appointments have been previously made on a fixed term basis and that fixed term has not expired;
- i) appointments to Outside Bodies except where appointment to those bodies has been delegated by the Council to a Chairmen or confirmation of such, if such appointments have been previously made on a fixed term basis and that fixed term has not expired;
- j) any business which in the view of the Mayor and Chief Executive is urgent and cannot be dealt with by one of the Council's Committees;
- k) approve a programme of ordinary meetings of the Council for the year.

2.2 At ordinary meetings the order of business shall be as follows:

- a) appointment of a person to preside if the Mayor and Deputy Mayor are both absent;
- b) to receive any declarations of interest;
- c) consideration of the minutes of the previous meeting(s);
- d) any business required by statute to be done;
- e) to receive such communications or deal with such business as the Mayor may wish to lay before the Council;
- f) business remaining from the previous meeting;
- g) questions from Members;
- h) Chairmen's statements;
- i) recommendations from Committees;
- j) reports from Officers;
- k) motions on notice;
- l) any other business set out in the Summons or which may be added pursuant to Standing Orders;
- m) any business which in the view of the Mayor and the Chief Executive is urgent and cannot be dealt with by one of the Council's committees.

- 2.3 At an extraordinary meeting the order of business shall be as follows:
- a) appointment of a person to preside if the Mayor and Deputy Mayor are both absent;
  - b) to receive any declarations of interest;
  - c) the business specified in the request/direction that the meeting be called.
- 2.4 Unless subject to a statutory requirement, the order of consideration of business at any meeting may be changed by the Mayor or by the will of the meeting following a motion to that effect, which shall be moved, seconded and put to the vote without debate. The mover of the motion shall be entitled to make a short statement (maximum 2 minutes) to explain why they believe the order of business should be changed.
- 2.5 Business which the Council decides should be exempt will be dealt with after the press and public have been excluded, and shall normally be considered after all other business has been concluded.
- 2.6 On consideration of the minutes of a previous meeting, there shall be no discussion except in relation to their accuracy. Any question as to the accuracy of the minutes shall be raised by way of a formal motion seeking to alter the minutes. Following approval of the minutes, they shall be signed by the Mayor.

#### **FCR 3 - Quorum**

- 3.1 No business may be transacted at a meeting of the Council unless at least one quarter of the members of the Council are present (ten Members).
- 3.2 Where more than one third of the members of the Council become disqualified at the same time, then, until the number of members is increased to not less than two-thirds of the whole number of members, the quorum shall be determined by reference to the number of members remaining qualified.
- 3.3 If at the time a meeting is scheduled to start, or at any time during a meeting, the Mayor declares that a quorum is not present, the meeting shall be adjourned to a date and time fixed by the Mayor at the time the meeting is adjourned, or to the date of the next ordinary meeting of the Council.

#### **FCR 4 - Voting**

- 4.1 Subject to the provisions of any enactments all questions coming or arising before the Council shall be decided by a majority of the members of the Council present and voting thereon at a meeting of the Council.

- 4.2 A question may be decided by “unanimous consent” where the Mayor asks if a matter is agreed and no member objects. In the event of any member objecting, a formal vote shall be taken.
- 4.3 Except as otherwise provided, voting shall be on a show of hands of those present.
- 4.4 In the case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.
- 4.5 The number of members voting for, against or abstaining on a motion, shall be recorded in the minutes.

#### **Request for a Recorded Vote**

- 4.6 If a Member present at the meeting requests a recorded vote on a matter, such member will require seven additional members present (8 in total) to support such a request and such request must be made before voting commences. In the event a recorded vote is agreed, the names for and against the motion or amendment or abstaining from voting, will be taken down in writing and entered into the minutes.
- 4.7 Unless a recorded vote has been taken, immediately after any vote has been taken, following a request to that effect from any member, their vote for or against the motion, or their abstention, shall be recorded in the minutes.

#### **Voting on appointments to Outside Bodies**

- 4.8 Where there are any appointments to be made to outside bodies by the Council and the number of persons nominated exceeds the number of vacancies, a secret ballot shall be held. Each member shall be entitled to vote for as many individuals as there are vacancies. The nominee(s) with the most votes shall be taken to be appointed. The Chief Executive shall announce the voting figures and shall identify the successful candidates to the meeting, which shall be asked to give its consent to the appointments.

#### **FCR 5 - Speeches and Recorded Vote for Budget Decisions**

- 5.1 The Chairman of Strategy & Resources Committee will present the Council's Budget at the Budget meeting. His presentation will not be subject to any time limit. A representative of each Group shall present their response to the Budget and they shall have 10 minutes to do so. The matter will then be opened to debate in accordance with Standing Orders. Any member wishing to speak on the Budget will have 3 minutes to do so, any amendment will be considered in accordance with Standing Orders. The Chairman of Strategy & Resources Committee will conclude the debate on the Budget with a reply lasting no longer than 10 minutes.

- 5.2 In any event, at any meeting of the full Council at which a Budget Decision is made, there shall be a recorded vote on any decision relating to the budget or council tax. The names for and against or amendment or abstaining from voting, will be taken down in writing and entered into the minutes.
- 5.3 Recorded votes shall be conducted by an appropriate officer calling the name of each Member present who shall state whether they are voting 'for' or 'against' or whether they wish to 'abstain'. The officer shall record the voting and inform the Mayor of the result.

**FCR 6 - Appointment of Committees and Chairmen**

- 6.1 The Council shall at the Annual Meeting appoint such committees, sub-committees, advisory panels and other bodies as are deemed necessary to carry out the work of the Council.
- 6.2 The Council may at any time appoint such other Committees or bodies as are necessary to carry out the work of the Council, whether on an ongoing or time-limited project specific basis.
- 6.3 Subject to any statutory provision, the Council:-
- a) shall not appoint any member of a committee to hold office later than the next Annual Meeting of the Council unless such appointment is for a fixed term basis;
  - b) may at any time dissolve a Committee, sub-committee, advisory panel or other body, joint committee or alter its membership.
- 6.4 The Council may, at any meeting, including the Annual Meeting appoint a Chairmen and Vice-Chairmen of committees, sub-committees, advisory panels and joint committees. It may also appoint members of committees, sub-committees, advisory panels, joint committees and nominate to outside bodies. In the event of any vacancy arising during the course of the municipal year, the relevant committee, sub-committee and advisory panels are able to make such appointments as necessary until the meeting of the next Annual Meeting. Appointments to vacancies on joint committees or nominations to outside bodies shall be made by Council at the next ordinary or extraordinary meeting of Council.
- 6.5 At any one time a Member may hold the office of Chairman of only one of any of the following committees:
- a) any of the four policy committees
  - b) Planning
  - c) Audit, Crime & Disorder and Scrutiny Committee

**FCR 7 - Role of the Mayor**

- 7.1 The appointment of the Mayor is to be the first business at the Annual Meeting of the Council.
- 7.2 In the event of a casual vacancy in the office of Mayor, the Mayor will be appointed in accordance with section 88 of the Local Government Act 1972.
- 7.3 The Mayor, if present, shall preside at meetings of the Council. If the Mayor is absent, the Deputy Mayor shall preside at a meeting.
- 7.4 If both the Mayor and Deputy Mayor are absent, the first business of the meeting shall be to elect a member to take the chair and preside over the meeting.
- 7.5 All powers or duties of the Mayor at a meeting may be exercised by whoever is appointed to preside over the meeting.
- 7.6 The ruling of the Mayor as to the meaning or application of these rules of procedure or as to any proceedings of the Council shall be final and shall not be challenged at any meeting of the Council.
- 7.7 Subject to Standing Orders, the order of business to be set out in a Summons shall be approved by the Mayor.
- 7.8 The Mayor shall decide whether any question or motion submitted by a member is in order and should be included in the summons. If any question or motion is ruled out of order, the member or members who gave it shall be informed of the reason for such ruling.
- 7.9 The Mayor, following consultation with the Chief Executive, shall decide whether an item of business not set out in the summons shall be considered at a meeting as a matter of urgency by reason of special circumstances, which shall be announced and specified in the minutes of the meeting.
- 7.10 The Mayor shall rule on any point of order which arises during a meeting, and shall first be entitled to seek such advice as they think necessary.
- 7.11 The Mayor shall control the debate on any matter to avoid excessive repetition and confine debate within the scope of the meeting and reasonable limits of time. In so doing, the Mayor shall remain impartial and ensure that different viewpoints are heard.
- 7.12 Whenever the Mayor stands up during a debate any member then standing shall resume their seat and the Council shall be silent. The Mayor may interrupt the debate to restore order by using the command "order", or by striking the gavel. The Council must then be silent until the Mayor calls on a Member to speak.

## **FCR 8 - Good Order at Meetings**

### **Disturbance by the public**

- 8.1 If a Member of the public interrupts the proceedings at any meeting the Mayor shall issue them a warning. If they continue the interruption the Mayor shall order their removal from the Meeting. In case of general disturbance in any part open to the public, the Mayor shall order that part to be cleared.
- 8.2 In the event of a public disturbance, the Mayor may without question adjourn the meeting for such period as s/he considers expedient.

### **Disorderly conduct by Members**

- 8.3 If any Member:
- a) persistently disregards the ruling of the Mayor; or
  - b) behaves irregularly, improperly or offensively; or
  - c) deliberately disregards procedure; or
  - d) deliberately obstructs the business of the meeting; or
  - e) imputes improper motives, or uses any offensive expression, to any other Member.
- then the Mayor will name the Member and require such Member to apologise and or refrain from such behaviour immediately.
- 8.4 If a Member, despite a Mayoral warning under Standing Orders, continues with their behaviour, the Mayor may take such action as is needed to prevent such behaviour impacting the conduct of the meeting. Such action may include:
- a) forbid the Member from speaking for some or all of the rest of the meeting;
  - b) order the Member to leave the meeting for all or part of the remaining business.
  - c) order the Member to be removed from the meeting.
  - d) adjourn the meeting for such period as they think fit
- 8.5 The decision of the Mayor as to acceptable conduct whether by Members or the public shall be final.

### **Mobile phones, filming & recording of Meetings**

- 8.6 Audible alerts on mobile phones must be turned off.
- 8.7 Any recording or filming shall be undertaken in accordance with the Protocol included in Part 5 of the Constitution. The purpose of the Protocol is to



provide guidance, particularly, for members of the public as well as the media on the taking of photographs and / or the audio / visual recording of any Council meeting held in public.

- 8.8 The Mayor has absolute discretion to terminate or suspend any of these activities if, in his/her opinion, continuing to do so would prejudice or unduly disrupt proceedings at the meeting.
- 8.9 Whilst no prior permission is required, any person wishing to film, photograph or record such a meeting, is requested to advise the Mayor of their intention to do so.
- 8.10 The Mayor shall advise Members and the public that the meeting is being recorded. In order to maintain orderly conduct or prevent misbehaviour or disruption of the meeting, the Mayor may exclude any individual who is recording the meeting.
- 8.11 The protocol also refers to the use of "Social Media" at meetings and makes clear that there are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Mayor does not consider their actions are disrupting the proceedings of the meeting leading to disorderly conduct and/or misbehaviour.

#### **Banners and placards**

- 8.12 The Mayor will require to be left outside the meeting room any banner, placard or other object being carried by any person.

#### **FCR 9 - Guillotine**

- 9.1 If all business has not been dealt with by 22.00 hours, the Mayor shall review the order of the remaining items on the agenda. Any items still outstanding shall be dealt with in the order announced by the Mayor with those items requiring a decision to be completed by 22.30 hours. The Mayor may, in order to deal with matters, which remain outstanding, adjourn the meeting to a day and time to be appointed by the Mayor.
- 9.2 A meeting must not sit later than 23.00 hours in any event and the operation of Standing Order cannot be suspended.

#### **FCR 10 - Adjournment of meetings**

- 10.1 The Council may adjourn any meeting to a later hour on the same day, or to any other day and hour so long as it is within 10 working days of the original meeting.

- 10.2 If no date is set by Council for a reconvened meeting, the date shall be determined by the Mayor in consultation with the Chief Executive.
- 10.3 An adjourned meeting shall be deemed a continuation of the original meeting.
- 10.4 No business shall be transacted at any adjourned meeting which was not included in the notice convening the meeting of which it is an adjournment, subject to any agreed urgent item which may have been included by the original meeting.
- 10.5 Written notice of the adjourned meeting shall be sent by the Chief Legal Officer to each Member specifying the business to be transacted.

**FCR 11 - Chairman's Statements to Council**

- 11.1 The Chairman of each of the policy committees is able to submit a Chairman's statement to be included as a standard item on the agenda for each Council meeting (excluding the Annual meeting and budget meeting). This will be a short statement briefing Members on the current events and issues relating to the relevant committee's area of work.
- 11.2 At the conclusion of the all of Chairman's Statements, 15 minutes will be set aside for Members to ask questions on the statement of any Chairman.

**FCR 12 - Questions from Members of the Council**

- 12.1 Ordinary meetings except the budget meeting will have 30 minutes for members of the Council to ask questions if the requirements of this Standing Order are satisfied.
- 12.2 Notice of the question must be given in writing to the Chief Legal Officer no later than ten clear working days before the day of the meeting.
- 12.3 The question must be addressed to the Mayor or the Chairman of any committee, sub-committee or advisory panel.
- 12.4 The question must relate to a matter which on which the Council has statutory powers or duties or which affects the Borough or its inhabitants.
- 12.5 The Chief Legal Officer will reject a question, if it:
  - a) is not about a matter falling within this Standing Order;
  - b) concerns a matter which could be raised as casework or through the Council's complaint's procedure or is specific to a particular individual or their property;
  - c) is defamatory, frivolous or offensive;

- d) criticises or purports to criticise an employee/officer's competence and or conduct and the employee/officer is identified by name, title or in any other way;
- e) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- f) requires the disclosure of confidential or exempt information.

- 12.6 Questions shall be called by the Mayor in the order in which notice of the question was received, except that if a member gives notice of more than one question, their second or subsequent question(s) shall appear after all of the first questions submitted by other members, and so on.
- 12.7 Where practicable, a written answer to each question shall be circulated to all members no later than one working day before the meeting. Any oral answer may be committed to writing and if so will be published within four working days after the meeting.
- 12.8 The Mayor shall allow up to 30 Minutes for questions and their replies at the meeting. If a question is being asked or answered at the time limit, the answer must be completed within 5 minutes. A written answer must be provided within four working days to any questions not called within the 30 minute period and in respect of which no written answer has already been circulated to members.

#### **Response to Questions**

- 12.9 Every question shall be put and answered without debate or comment from any other Member. If no written answer has been circulated to Members in advance, an explanation shall be provided as to why it has not been practicable to provide a written answer.
- 12.10 For a question having been called at the meeting, the Member asking the question, is allowed to ask one supplementary question, which must arise from the reply provided.

#### **Member asking question absent from meeting**

- 12.11 If a Member asking a question (the questioner), knows they will be absent from the Council Meeting, they may notify the Mayor which other Member will ask the question on their behalf. Such nominated member shall have the same rights as the questioner. If the Member is absent and no substitute has been appointed, the Mayor shall first ask whether any other Member from within the same Group as the questioner wishes to take the opportunity to ask a supplementary question. If the Member concerned is not in a group or no member of the group wishes to ask a supplementary question, then any other Member may indicate to the Mayor their wish to ask a supplementary question, and the Mayor shall call on the first to do so, to ask their question.

- 12.12 With the consent of the Mayor, following consultation with the person to whom the question is addressed, a question may be asked of which the notice required by Standing Orders has not been given where: the question relates to an urgent matter or on an issue of relevance or importance that has come to light after notice which could have been given under Standing Orders. In this case, notice shall be given, as soon as practicable, and no later than noon, on the day of the meeting. The time for questions from Members will be extended to allow the asking of and reply to such question at the meeting.

#### **FCR 13 - Petitions**

- 13.1 All Petitions received shall be dealt with in accordance with the Council's Petition Scheme, which is set out at Article 16 to the Constitution.
- 13.2 Petitions relating to individual planning and licensing applications and other statutory petitions are not included in the Petitions Scheme.

#### **FCR 14 - Motions**

##### **Duration of Debate**

- 14.1 Council meetings will have 90 minutes set aside to deal with all motions (including amendments) which have been brought.

##### **Motions challenging previous decisions**

- 14.2 Until at least two further ordinary meetings of the Council have been held (being a period of no less than 6 months), no motion may be moved to rescind or alter any decision of the Council or a decision of a committee on a matter within its terms of reference, and no motion or amendment to the same effect as one which has been rejected by Council or a committee shall be moved unless, in either case: -
- a) it is recommended by a committee; or
  - b) notice of the motion has been given by at least seven Members of the Council acting together.

##### **Notice of motion and withdrawal of motion**

- 14.3 Subject to Standing Orders on motions where notice to be given in writing and those which may be moved without notice, any Member of the Council may propose a motion at any meeting of the Council.
- 14.4 A notice of motion (other than a recommendation from a Committee) must be given on the prescribed form (which can be obtained from Democratic Services) and delivered to the Chief Legal Officer by no later than noon on the

tenth clear working day before the date of the meeting at which it is intended to be considered. A record will be kept of all motions received and these will be dated and numbered in the order in which they were received.

- 14.5 All motions of which notice has been duly given shall be set out in a report to the meeting in order of receipt.
- 14.6 If a Member wishes to withdraw a Motion before it appears in the Agenda or before the start of a meeting, they must confirm such withdrawal to the Chief Legal Officer in writing.

**Motion set out in agenda**

- 14.7 Motions for which notice has been given will be listed on the agenda in the order in which the notice was received, unless the Member giving the notice wishes to withdraw or proposes the motion for a later meeting. Motions shall be formerly moved by the member who gave notice, or on the written request of this Member, by another Member on their behalf.

**Scope and wording of Motions**

- 14.8 All motions must be relevant to some matter on which the Council
- a) has powers or duties, or
  - b) which affects the Borough, or
  - c) something of national significance where there is a wish to acknowledge or celebrate.
- 14.9 Motions that relate to the functions of a Policy Committee, once determined by the Council, shall be referred to the relevant policy committee for consideration if action is required.
- 14.10 If notice is given of any motion which in the opinion of the Mayor, following consultation with the Chief Legal Officer is out of order it shall not be accepted or placed on the agenda. If a motion is not accepted the member who gave the notice will be informed in writing. A Motion can be ruled out of order if :
- a) is not about a matter for which the Council has responsibility or which affects the Borough;
  - b) is defamatory, frivolous or offensive;
  - c) is in breach of Standing Orders on motions challenging previous decisions;
  - d) requires disclosure of confidential or exempt information.

**Motion not moved at Meeting**

14.11 If at the meeting, a motion is not moved either by the member who gave the notice or some other member it shall be treated as withdrawn and shall not be moved without fresh notice being given.

**Withdrawal of a Motion**

14.12 A motion which has been moved and seconded may only be withdrawn with the consent of the meeting.

**Motions without notice**

14.13 The following motions may be moved without notice:

- a) To appoint a person to preside at a meeting
- b) To correct the minutes
- c) To change the order of business
- d) To remit a matter to a committee
- e) To appoint a committee arising from an item mentioned in the summons
- f) To adopt recommendations of committees or officers and to take action resulting from such adoption
- g) That leave be given to withdraw a motion
- h) To suspend rules of procedure
- i) To amend a motion
- j) To defer consideration of a matter to a later date
- k) To adjourn the meeting
- l) To proceed to next business
- m) That the question be now put
- n) That a member be not further heard
- o) To exclude the public
- p) To give the consent of the Council, where consent is required by these standing orders

**FCR 15 - Consideration of Committee Recommendations**

15.1 A recommendation from any Committee shall constitute a motion to be proposed by the Chairman, and shall not require to be seconded. If the

Chairman is not present, the Vice-Chairman or another Member of the Committee shall propose the recommendation.

- 15.2 A recommendation is open to debate in accordance with the Standing Orders on rules of debate.
- 15.3 A recommendation cannot be amended if to do so would contravene the requirement of the law or of the process for such decision-making.

#### **FCR 16 - Rules of debate**

##### **Addressing the Mayor**

- 16.1 A Member when speaking shall stand and address the Mayor. If more than one Member stands the Mayor shall indicate the order of speakers. Subject to Standing Orders on Points of Order and Personal Explanation, all other members shall remain seated whilst a Member is speaking.
- 16.2 Only one member shall speak at any one time, and members shall stand whilst speaking. All other members shall remain seated, unless rising to make a point of order/personal explanation.
- 16.3 If a member stands to raise a point of order or point of personal explanation, the Member shall be heard immediately, and any member then speaking shall give way.

##### **Points of Order**

- 16.4 A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The Member must identify the Standing Order or rule of law being breached before the Member sets out their reasoning in which he/she considers it has been broken. The ruling of the Mayor on a point of order will be final.

##### **Personal Explanation**

- 16.5 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of the earlier speech by the member (made at the meeting), which may appear to have been misunderstood in the present debate. The member raising the point shall specify what the Member said earlier and how they feel this has been misunderstood. The ruling of the Mayor on the admissibility of a personal explanation will be final.

## Motion to be put before debate

16.6 There shall be no debate unless a motion has been proposed and (except where specifically stated) seconded. In the event an amendment is proposed, the original motion must be moved first and seconded and only then can proposer of an amendment indicate to the Mayor of his/her intention to propose an amendment.

16.7 Once a motion as been put, the Mayor will invite Council to decide how the motion on notice from a Member should be dealt with. The Mayor will ask for a vote without debate on whether the motion should be referred to an appropriate Committee for consideration. Before the Council takes a vote the advice of the Chief Executive as to which Committee the motion should be referred to, shall be taken. The decision to refer to an appropriate Committee will be on the basis of a simple majority. If the motion is referred to a Committee, the Committee in question must consider the motion.

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## Process of a debate where there are no proposed amendments

16.8 The motion shall then be opened for debate with the Mayor requesting those wishing to speak to indicate their wish to do so by raising their hand.

16.9 The Mayor will note all those wishing to speak on the motion. Members shall generally be called to speak in the order in which the Mayor notes their wish to speak, except that the Mayor may alternately invite speakers from opposing sides of the debate, to seek to maintain a balanced debate.

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## Process where amendments are proposed

16.10 In the event an amendement or amendments on a motion are moved by a proposer and seconder,provided the proposed amendments are in order, the mover of the orginal motion will be asked if they wish to accept the proposed amendments.

16.11 If such proposed amendments are accepted by the mover of the orginal motion, there shall be no debate on the proposed amendments and the orginal motion shall be amended accordingly incorporating the amendments.

16.12 In the event the mover of the orginal motion does not accept the proposed amendments, such amendments will be debated in accordance with Standing Orders.

## Process on debate & length of speeches

16.13 The order, content and length of speeches is as follows:



- a) speeches must be directed to the motion/ amendment under discussion or to a personal explanation or point of order;
- b) Members and officers at a meeting shall be addressed or referred to by their respective titles;
- c) the order and times for speeches on motions will be as follows:
  - (i) the proposer of the motion will have 7 minutes to set out their motion;
  - (ii) the seconder shall have 5 minutes to second the motion;
  - (iii) all other Members wishing to speak on the motion will have 3 minutes;
  - (iv) the Chairman has a right to reply to the motion and shall have 5 minutes to respond;
  - (v) the proposer shall have the right to respond and sum up and will have 5 minutes to do so;
- d) once a motion has been put, if a member wishes to propose an amendment for which notice has been given, that amendment must be put at the earliest opportunity;
- e) the proposer of the amendment shall propose the amendment and call for a seconder. Once the seconder has seconded the request for an amendment, the Mayor will then rule whether such proposed amendment is ruled in order to enable it to proceed to a debate. If it is ruled in order, amendment will be debated before any debate on the original motion in accordance with the same rules of debate as for a motion. If it is ruled out of order, it will fall and the original motion will be allowed to proceed to debate;
- f) the order and times for speeches on amendments ruled in order will be as follows:
  - (i) the proposer of the original motion, will have 7 minutes to set out their motion;
  - (ii) the proposer of the amendment will have 5 minutes to speak to their amendment;
  - (iii) the seconder of the amendment shall have 3 minutes to speak to the amendment;
  - (iv) all other Members wishing to speak on the amendment will have 3 minutes;
  - (v) the Chairman has a right to reply to the amendment and shall have 5 minutes to respond;

(vi) the proposer of the original motion shall have the right to respond to the amendment and will have 3 minutes to do so;

g) the process of debate on a motion or an amendment, is as follows:

- (i) once the motion has been proposed and seconded, the proposer of the motion may speak to their motion and the seconder may speak or reserve their right to speak (the seconder must exercise that right before the reply before the Chairman of the relevant committee)
- (ii) in the event an amendment is proposed, the proposer of the motion must first move the motion which must be seconded by the seconder, only then can the proposer of an amendment put forward their amendment;
- (iii) the seconder of an amendment may speak immediately after the proposer of the amendment unless they reserve their right to speak later in the debate (as in the case of a motion, they must exercise that right before the reply from the relevant committee Chairman);
- (iv) all other Members responding with speeches to the motion or on amendment/s shall be called in turn to speak;
- (v) the mover of the amendment has no right of reply to the debate on their proposed amendment;
- (vi) neither the Chairman of the relevant committee nor the proposer of the original motion shall otherwise speak on the motion or an amendment to such, unless in accordance with Standing Orders. If they do so, they forfeit their right to reply to the debate on that motion or amendment.

16.14 If an amendment is carried, the motion as amended takes the place of the original motion and becomes the substantive motion to which any further amendments may be moved. The proposer of the original motion now becomes the proposer of the amended motion and may if not already exercised their right to speak on the motion, is then able to do so as the proposer of the motion.

#### **General matters on a motion or amendment**

16.15 No Member may speak more than once on a motion or on an amendment unless the operation of Standing Orders permit otherwise, namely:

- a) to speak once on any new amendments;
- b) to move a further amendment if a previous amendment is not carried or the motion has been amended since they last spoke;

- c) if their speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- d) in exercise of a right to reply as a Chairman, or as the proposer;
- e) on a Point of Order;
- f) by way of Personal Explanation.

16.16 Whilst a motion or amendment is under debate no other motion shall be moved except any one of the following:

- a) to remit a matter to committee for consideration/ reconsideration;
- b) to defer consideration of a matter to a later date;
- c) to adjourn the meeting;
- d) to proceed to next business;
- e) that the matter be now put;
- f) that a member be not further heard;
- g) to exclude the public;
- h) to give the consent of the Council, where consent is required by these standing orders.

16.17 The maximum time for any speech shall not be exceeded except with the consent of the Mayor.

16.18 Members must not speak about anything except the subject under discussion, or to raise a point of order, point of personal explanation or to raise a motion or amendment in accordance with Standing Orders.

16.19 When there is no-one else wishing to speak, or the Mayor determines that there has been sufficient discussion, or following agreement of a "closure motion", the Mayor shall call on:

- a) the Chairman of the relevant committee to reply to the debate (max 5 minutes on motion / max 3 minutes on amendment);

followed by (if it is not a recommendation from a committee),

- b) the proposer of the motion, who shall have a final right of reply to the debate (max 5 minutes on motion or 3 minutes on amendment), before the motion is put to the vote.

**FCR 17 - Process for putting amendments to Motions**

- 17.1 Amendments to a motion must comply with the requirements of Standing Orders. They must either be submitted in writing in advance of the meeting or at the meeting. Amendments which have been submitted in advance will be called by the Mayor in such order as shall best facilitate their consideration, immediately following the speech of the proposer, but shall be moved and seconded before being debated.
- 17.2 In accordance with Standing Orders, an amendment to a motion may also be moved and seconded during the debate but shall be provided in writing to the Mayor before being debated.
- 17.3 Only one amendment shall be debated at a time.
- 17.4 An amendment must be relevant to the motion. It must take the form of a proposal:
- a) to refer the matter back to committee;
  - b) to leave out words;
  - c) to leave out words and insert or add others;
  - d) to insert or add words.
- 17.5 The Mayor shall not accept an amendment/s if:
- a) it is outside the scope of the original motion;
  - b) it is outside scope the meeting;
  - c) it is outside the Council's powers;
  - d) it would contravene Standing Orders on challenging a previous decision) and/or;
  - e) has the same effect as voting against the motion;
  - f) appears to be frivolous or vexatious;
  - g) where an amendment has already been considered or is of a similar nature to one which has already been considered;
  - h) where several amendments having already been considered, it is considered further amendments would have the effect of unreasonably prolonging debate on a matter.

**FCR 18 - Closure motions**

- 18.1 At the conclusion of the speech of another member any member (except the proposer or seconder of the motion and, as the case may be, the amendment under debate), including the Mayor, may move one of the motions listed in Standing Orders 15.12 (a) to (f) above (a "closure motion"). When moving a closure motion the member must refer to these rules of procedure and state which motion they are moving and, once the Mayor has ruled that the motion is in order, will be given the opportunity to explain why it is being moved (max 5 minutes).
- 18.2 On a motion to remit a matter to a committee, the Mayor shall give the chairman of the committee the right to reply to the motion (max 5 minutes), after which the motion shall be put to the vote without debate or comment.
- 18.3 On a motion to defer consideration of a matter to a later date or to adjourn the meeting, if the Mayor considers that the matter requires further discussion but cannot reasonably be discussed at the meeting in question, the motion to defer shall be put to the vote without debate.
- 18.4 On a motion to proceed to next business, unless the Mayor thinks that the Council needs to reach a decision at that meeting on the matter then under consideration, the motion to proceed to next business shall be put to the vote, without comment or debate.
- 18.5 On a motion that the question be now put, unless the Mayor thinks that there has been insufficient debate of the matter, the Mayor shall first put to the vote the motion that the question be now put and, if it is passed, shall give the mover of the motion under consideration a right of reply (max 3 minutes) before putting that motion to the vote.

**Section 1(B) Relating to the Conduct of Committees, Sub-Committees and Advisory Panels**

**CPR 1 - Questions from the public**

- 1.1 At meetings of the Council's policy committees and Audit, Crime & Disorder and Scrutiny Committee up to 30 minutes will be set aside for written or oral questions from any member of the public who lives, works, attends an educational establishment or owns or leases land in the Borough, on matters within the Terms of Reference of the body in question, but which may not include matters listed on a Committee Agenda.
- 1.2 The question or topic may not relate to a specific planning application or decision under the Planning Acts, a specific application for a licence or permit of any kind, the personal affairs of an individual, or a matter which is exempt from disclosure or confidential under the Local Government Act 1972. Questions which in the view of the Chairman are vexatious or frivolous will not be accepted.
- 1.3 All questions whether written or oral must consist of one question only, they cannot consist of multi parts or of a statement.

**Written Questions**

- 1.4 A person who wishes to ask a written question must submit their question in writing (either in hard copy or by email) to the Council's Chief Legal Officer. The written question must arrive by noon on the tenth working day before the day of the meeting.
- 1.5 The member of the public submitting a written question must set out:
  - (a) the wording of the question they wish to ask
  - (b) an address, email address or telephone number at which they can be contacted before and after the meeting
  - (c) whether they live, work, attend an educational establishment or own or lease land in the Borough and if so, details.
- 1.6 Following receipt of a written question, the Chief Legal Officer will ensure that the member of the public asking the question is contacted and told whether their request complies with the conditions above. If contact details are not readily identifiable or have not been supplied, the question will not be accepted even if in all other respects it is valid.

**Process at Meeting**

- 1.7 Questions must be addressed to the Chairman of the relevant meeting.
- 1.8 The Chairman may decline to answer a question or may give an answer orally at the meeting or may provide a written reply. If available, the questioner will

be supplied with a written answer before the Meeting. At the Meeting, and as part of the initial response to a question, the Chairman may invite other Members of the relevant body to contribute or simply refer to a publication where the answer or further details may be found.

- 1.9 At the Meeting the Chairman will ask the questioner if the response answers their concern or if they wish to ask one supplementary question. If a supplementary question is asked, it must arise from the reply given. The Chairman may decline to answer a supplementary question or invite other Members of the relevant body to contribute to a response.
- 1.10 Written questions shall be taken first and in the order they were received followed by any oral questions, until 30 minutes have elapsed since the first question was called.
- 1.11 If a member of the public asks or wishes to ask more than one question, their second question (written or oral) shall be taken after all other individuals who wish to ask a question have been given the opportunity to do so.

#### **CPR 2 - Public speaking at the Planning Committee**

- 2.1 In relation to planning applications, there shall be three categories of speaker per application: objector, supporter and applicant/agent.
- 2.2 A person who wishes to speak at a Planning Committee must register their wish to do so between 6pm and 7pm on the evening of the meeting at the Town Hall reception desk.
- 2.3 Normally, in addition to the applicant/agent, one member of the public may speak for and one may speak against a single application. Registration will normally be on a first come first served basis but an individual may choose to waive this right in favour of an individual who attempted to register at a later time. Alternatively, several members of the public may appoint one person to speak on their behalf provided they can reach agreement to this amongst themselves.
- 2.4 Speakers shall be called in the order of (1) objector (2) supporter (3) applicant/agent.
- 2.5 A speaker shall have a maximum of three minutes to address the Committee and must confine their remarks to the application upon which they requested to speak. The applicant/agent shall be given an amount of time equal to the amount of time allocated to the all the objectors. The address shall be in the

form of a statement, not attempts to question the applicant or other person but may address issues raised by other speakers.

**CPR 3 - Petitions**

- 3.1 A petition is a written or electronic communication which is signed by or sent to the Council on behalf of at least 20 people. The Council's response to a petition will depend on what the petition asks for and how many people have signed it but may include presenting the petition at a committee meeting.
- 3.2 The presentation of petitions at policy committees shall take place immediately after the submission of questions by members of the public in the order in which notice of them is received by the Chief Legal Officer.
- 3.3 The petition organiser shall have the opportunity to present the petition to a meeting of the appropriate policy committee provided that they have given notice of their intention to do so to the Chief Legal Officer by noon at least ten working days before the meeting at which the petition is to be presented.
- 3.4 The presentation of a petition shall be limited to not more than five minutes, and shall be confined to reading out, or summarising, the subject matter of the petition, indicating the number and residency of the signatories, and making such further supporting remarks relevant to the petition.
- 3.5 Regarding petitions presented to a policy committee (of which proper notice has been given):-
  - (a) a written response may be available in advance of the meeting
  - (b) the Chairman of the Committee may, if he considers it convenient and conducive to the despatch of business, allow the subject matter to be dealt with at the meeting at which it is presented; or otherwise
  - (c) the subject matter shall stand referred, without discussion, either to the next ordinary meeting of the Committee or other appropriate body.

**CPR 4 - Committee, Sub-Committee and Advisory Panel timetables and agendas**

- 4.1 The Chief Legal Officer will prepare a timetable of meetings of the Council, any committees, sub-committees, advisory panels and joint committees (as appropriate) each year and submit it to the Council for approval. Meetings shall be organised in accordance with the approved timetable. The Chief Legal Officer may re-arrange the date for, add a further date or cancel, a meeting if they and the Chairman of the body in question are both satisfied that there is good reason for doing so or insufficient business to justify the



meeting being held, or for other reasons which in their view are sufficient. When a meeting is cancelled or the date is changed, the Chief Legal Officer shall notify Members accordingly. When possible, notice of the cancellation or change shall also be posted on the Council's website.

- 4.2 The Chief Legal Officer must dispatch an Agenda at least five working days before every meeting of any committee, sub-committee, advisory panel and joint committee or as soon as the meeting is called whichever is later.
- 4.3 The agenda must include:
  - (a) all items of business referred to the committee, sub-committee, advisory panel or joint committee;
  - (b) any reports submitted to the committee or sub-committee by the Chief Executive, Chief Operating Officer/Director; Heads of Service;
  - (c) any item of business which the Chairman requires to be included.
- 4.4 Any Member who wishes to request that a particular item of business be included must give notice in writing to the Chief Legal Officer by noon on the tenth working day before the date of the meeting.
- 4.5 A report shall not be submitted to a Policy Committee, Sub-Committee or Advisory Panel if, in the opinion of the Chief Legal Officer it does not comply with legal or policy requirements.
- 4.6 Subject to any requirements of the Chairman, the Chief Legal Officer must arrange the order of business in a manner in which they consider will ensure the effective despatch of business.
- 4.7 If it is impossible, owing to exceptional circumstances, to include a report on a particular item on the Agenda before it is despatched, or if a report is proposed to be put to the meeting as a matter of urgency in special circumstances under Section 100 B of the Local Government Act 1972, the Chief Legal Officer shall circulate it to every person entitled to receive the papers of the committee or sub-committee as soon as practicable after they have been prepared.
- 4.8 The Audit, Crime & Disorder and Scrutiny Committee has the right, in the exceptional circumstances mentioned in Section 4 , Overview and Scrutiny Procedure Rules, to call-in any decision of a policy committee other than a

recommendation to the Council in accordance with the Protocol on Use of Call-in Procedure set out in Part 5 of the Constitution.

**CPR 5 - Special meetings of Committees, Sub-Committees and Advisory Panels**

- 5.1 The Chairman of any committee (or in his absence the Vice Chairman) or the Chairman of any sub-committee, advisory panel or joint committee may call a special meeting of that committee at any time. The Chief Executive, Chief Finance Officer and Monitoring Officer may also call a special meeting to consider business at any time.
- 5.2 A special meeting may also be called if a joint written request signed by at least three, or one quarter of the total number, of the voting members of a policy committee, sub-committee or advisory panel, whichever is the greater, has been made to the Chairman of a policy committee (or in his absence, Vice Chairman) or Chairman of a sub-committee or advisory panel (the request should be sent to the Chief Legal Officer).
- 5.3 The Chairman may not refuse to hold a special meeting in such circumstances and a special meeting must be called within seven working days of the presentation of such a properly constituted request.
- 5.4 The request to call a special meeting must state the business to be transacted and no other business. The Chief Legal Officer must fix a date for the meeting which so far as practicable is appropriate for the proper despatch of that business upon which the Standing Order for circulation of papers will then apply.

**CPR 6 - Rights and duties to attend meetings**

- 6.1 With the exception of Licensing Sub-Committees and Standards Hearing Sub-Committee, any member of the Council may attend the meetings of all committees, sub-committees and advisory panels as an observer and may speak if permission given permission by the Chairman. Such permission to speak will not normally be refused by the Chairman.
- 6.2 At Planning Committee, Ward Councillors who are not members of the Planning Committee are able to attend the meeting and address the meeting on matters which affect their Ward in accordance with the Model Code of Practice in respect of Planning Matters included in Part 5.
- 6.3 A co-opted member of a committee, sub-committee or advisory panel has the right to attend all meetings of that body but may speak only on matters which the Chairman considers reasonably and fairly relate to the purposes for which

they were appointed to the body. Co-opted members may not speak on the appointment of a Chairman or Vice-Chairman or be elected to those offices.

- 6.4 In the case of the Planning Committee, Members of the Committee who have entered the meeting late for a particular item, have no right to vote on that item.
- 6.5 The Audit, Crime & Disorder and Scrutiny Committee may require any Member of a policy committee, the Chief Executive, Chief Operating Officer/ Director and/or any Head of Service to attend before it to explain in relation to matters within its remit:
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and
  - (c) their performance and it is the duty of those persons to attend if so required.
- 6.6 Notwithstanding anything said above, a member whose notice of motion has been referred by the Council to any policy committee, sub-committee or advisory panel shall be given notice of the meeting at which it is proposed to consider the motion.

#### **CPR 7 - Quorum**

- 7.1 The quorum of a policy committee, sub-committee, Audit, Crime & Disorder and Scrutiny Committee or advisory panel shall be at least one quarter of the total number of Members of the relevant body rounded up to the next whole number, but shall never be less than three except where authorised by statute or where ordered by the Council.
- 7.2 If there is no quorum at the time the meeting is summoned to start, the Chairman will allow a delay of fifteen minutes to see if a quorum assembles. If there is still no quorum at the end of that period, the meeting must be reconvened at another time.
- 7.3 If during any meeting of a committee, sub-committee or advisory panel the Chairman ascertains that a quorum is not present, the meeting shall stand adjourned for fifteen minutes. If after fifteen minutes there is still no quorum present, the meeting shall end.
- 7.4 The Chairman may fix a date and time to deal with any business which cannot be dealt with because the meeting is not quorate in accordance with Standing

Orders. If they do not do so, the business shall be dealt with at the next timetabled meeting of the committee, sub-committee or advisory panel.

**CPR 8 - Absence of Chairman**

- 8.1 If the Chairman is absent from a meeting, the Vice Chairman shall Chair the meeting. In the absence of a Vice Chairman, or if no Vice Chairman has been appointed by the Council, the Committee must elect a person to Chair the meeting.
- 8.2 A Chairman or Vice Chairman must be drawn from the membership of the committee or sub-committee.
- 8.3 If the Chairman or Vice Chairman enters the meeting after another member has been appointed to preside, that Member must immediately at the conclusion of the matter under discussion offer the chair to the Chairman or Vice Chairman.
- 8.4 If the Chairman resigns or is unable to act as such, the Vice Chairman shall become the Chairman until a Chairman (and if necessary a Vice Chairman) is elected for the remainder of the municipal year by the Council. If the Vice Chairman resigns or becomes unable to act as such, then the Committee shall elect a new Vice-Chairman until the end of the municipal year or to the next Council meeting whichever is the earlier.
- 8.5 Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the person chairing the meeting and any reference to the Chairman shall be taken to include such persons except that an officer shall not be entitled to a vote of any kind.

**CPR 9 - Guillotine**

- 9.1 At 22.00 hours (or two and a half hours after a meeting has commenced or as may be appropriate) the Chairman of meeting shall review the business to be transacted and shall order the items so as to dispose of all matters requiring a decision by 22.30 hours. In respect of any matters still outstanding at 22.30 hours, the committee shall be asked to decide either that these be agreed as

presented without debate/discussion or that they be held over until the next meeting.

- 9.2 A meeting must not sit later than 23.00 hours in any event and the operation of this Standing Order cannot be suspended.

#### **CPR 10 - Minutes**

- 10.1 The Minutes of any meeting of a committee, sub-committee or advisory panel shall be written and presented to the next ordinary meeting of the relevant body.
- 10.2 The Chairman shall put that the Minutes of the meeting held on the day in question be signed as a true record.
- 10.3 There shall be no discussion on the Minutes, except by way of a motion relating to their accuracy. If no question of accuracy is raised, or as soon as any question is settled, the Chairman shall initial each page of the minutes in addition to dating and signing the final page of the said document.
- 10.4 If the committee, sub-committee or advisory panel is not scheduled to meet again, or is not likely to meet in the foreseeable future, the Chairman of the committee or sub-committee (or in his absence any Member of it) may sign the Minutes using the above procedure when the proceedings of that body are reported to (or at a convenient meeting of) the Council or the parent committee, subject to the resolution of all questions as to their accuracy which may then be raised by Members who were present at the meeting.
- 10.5 The minutes will reflect those leaving the room or not present when matters are being voted on.

#### **CPR 11 - Scheme of delegation**

- 11.1 A committee, sub-committee or advisory panel shall act in accordance with its terms of reference and delegated powers as agreed by the Council and set out in this Constitution.

#### **CPR 12 - Rules of debate**

- 12.1 Meetings of policy committees, sub-committees and advisory panels are to be conducted with as little procedural formality as is consistent with the need for

good order and the effective conduct of business. However, the following guidelines should be taken into account:

#### **Proposals and Amendments**

- 12.2 The officers' recommendations in a report shall constitute proposals which do not require to be moved and seconded and shall be the basis for debate.
- 12.3 During a debate, a Member should make it clear if they are suggesting something which they wish to be, or form part of, the decision of the policy committee, sub-committee or advisory panel. It is best practice for any such proposals to be seconded and the Chairman may require them to be submitted in writing so that they may be read to the meeting before being discussed. For the sake of clear and transparent decision making, the Chairman should explicitly ask the Committee to agree to any such proposal and if any Member of the Committee disagrees, a vote by show of hands should be taken prior to any further debate.
- 12.4 Members must not speak about anything except the subject under discussion, a point of order, personal explanation or declaration of interest.
- 12.5 Members have no right to speak as often as they wish on a particular agenda item and the Chairman may rule that a Member may no longer be heard. The Chairman's ruling on this shall be final and not open to comment.
- 12.6 It is the role of the Chairman to summarise what the Committee has decided, and if necessary, to take a final vote by show of hands, before moving onto the next item of business.

#### **Motions referred from Council**

- 12.7 The proposer of a motion referred to the Committee by the Council shall have the right to open the debate on the matter in question but may not vote on the matter unless they are a member of that policy committee, sub-committee or advisory panel. For the avoidance of doubt if they are substituting for a member, they are not able to vote on the motion they brought to Council and referred to the Committee. When there is no-one else wishing to speak, or the Chairman determines that there has been sufficient discussion, the Chairman shall call on the proposer of the motion referred from Council to reply to the debate (max 3 minutes), before the matter is put to the vote.
- 12.8 A member exercising a right of reply shall confine themselves to answering previous speakers and shall not introduce new matters or material; the Chairman's ruling on this shall be final and not open to comment.
- 12.9 In accordance with Council's Standing Orders, the policy committee, sub-committee or advisory panel in question will normally make a final decision on

the motion, if they have delegated authority to do so, or make a report and recommendation to Council if they do not have such authority.

**Proposals which may be moved during debate**

12.10 When a matter is under debate no other proposal shall be moved except to:

- (a) amend the proposal under discussion;
- (b) move that a Member not be further heard;
- (c) move a motion under Section 100A (4) of the 1972 Act to exclude the press and public;
- (d) move a closure motion.

**CPR 13 - Closure Motions**

13.1 At the conclusion of the speech of another member any member may move one of the following closure motions:

- (a) to refer a recommendation of a sub-committee or advisory panel back to that body for reconsideration;
- (b) to defer consideration of the matter until the next ordinary meeting of the Committee;
- (c) to adjourn the meeting;
- (d) to put the question;
- (e) to proceed to the next business.

13.2 When moving a closure motion the member must state which closure motion they are moving and, once the Chairman has ruled that the motion is in order, will be given the opportunity to explain why it is being moved (max 5 minutes).

13.3 On a proposal to refer a recommendation back to a sub-committee or advisory panel, the Chairman shall give the chairman of the relevant body, if they are present, the right to reply to the motion (max 5 minutes), after which the proposal shall be put to the vote without debate or comment.

13.4 On a proposal to defer consideration of a matter to a later date or to adjourn the meeting, if the Chairman considers that the matter requires further discussion but cannot reasonably be discussed at the meeting in question, the proposal to defer shall be put to the vote without debate or comment.

13.5 On a proposal to proceed to next business, unless the Chairman thinks that the committee, sub-committee or advisory panel needs to reach a decision at

that meeting on the matter then under consideration, the proposal to proceed to next business shall be put to the vote, without comment or debate.

- 13.6 On a proposal that the question be now put, unless the Chairman thinks that there has been insufficient debate of the matter, the Chairman shall put to the vote the proposal that the question be now put without comment or debate.
- 13.7 Unless a proposal to exclude the press and public is on the agenda, the Chairman shall ascertain the grounds for the motion and shall ascertain from the appropriate officers present whether the public can lawfully be excluded. If so, they shall allow the proposer of the matter under discussion a right of reply on the proposal to exclude the press and public and shall then put the proposal to the vote. If it is passed the Chairman may at their discretion either immediately require the press and public to leave the room in which the debate is being held or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.

**Chairman's discretion to put the question**

- 13.8 The Chairman may curtail the debate at any time if they consider that the Committee, Sub-Committee or Advisory Panel has sufficiently discussed the matter. They shall thereupon give the movers of the motion and amendment (if any) their rights of reply and put that motion or amendment to the vote.

**CPR 14 - Points of Order/Personal Explanation**

- 14.1 If a member wishes to raise a point of order or point of personal explanation, the Member should normally stand and shall be heard immediately, and any member then speaking shall give way.
- 14.2 A point of order relates only to an alleged breach of a rule of procedure or statutory provision. The member raising the point of order shall specify which rule(s) of procedure or statutory provision is involved and how the Member thinks it has been broken. The ruling of the Chairman on any point of order is final.
- 14.3 A point of personal explanation is an opportunity to correct an apparent misunderstanding of comments made by the member earlier in the debate. The member raising the point shall specify what the Member said earlier and



how they feel this has been misunderstood. The ruling of the Chairman on any point of order is final.

**CPR 15 - Respect for the Chairman**

- 15.1 The Chairman may interrupt the debate to restore order by using the command “order” or by striking the gavel. The Committee must then be silent until the Chairman calls upon a Member to speak.
- 15.2 All Members must address the Chairman when speaking.

**CPR 16 - Composition of Committee, Sub-Committees and Advisory Panels  
(including substitution of Members)**

- 16.1 Every member of the Council shall be eligible for appointment to a sub-committee.
- 16.2 A Committee may decide to co-opt additional members onto the Committee, whether members of the Council or not. Co-opted members of a Committee shall not be counted in the quorum for the Committee and shall not be entitled to vote on any matter before the Committee. Co-opted members may be appointed to assist with a specific area of business or generally to assist the Committee in its work.
- 16.3 Subject to section 102 (5) of the 1972 Act (councillor leaving office to cease to be a member of a committee) and Standing Orders on substitutions, every person appointed as a voting member of such a committee or sub-committee and every person appointed to exercise other functions in relation to a sub-committee shall continue until the appointment is terminated by the Council or they resign.
- 16.4 A Member of a committee, joint committee, sub-committee or advisory panel may for the whole of a specified meeting designate as his/her substitute another Member. The substitute may attend the meeting on behalf of, but not in addition to, the nominating Member and shall be entitled to speak and vote. The nominating Member, or in their absence, the Leader/Chairman of his/her Group Deputy Leader/Chairman of his/her Group, shall inform the Chief Legal

Officer or his representative in writing or by e-mail, prior to the meeting in question, that his/her substitute will be attending

- 16.5 Provisions for the appointment of substitutes do not apply to meetings of Licensing Sub-Committees.

**CPR 17 - Motions affecting staff**

- 17.1 If any question arises at a meeting of a Committee, Sub-Committee or Advisory Panel as to the appointment, promotion, dismissal, salary or conditions of service of any person employed by the Council, or their conduct, the matter must not be discussed until it has been decided whether or not to exclude the press and public under Section 100 A (4) of the 1972 Act.

**CPR 18 - Good order in meetings**

**Disorderly conduct by Members**

- 18.1 If any Member:

- (a) persistently disregards the ruling of the Chairman; or
- (b) behaves irregularly improperly or offensively; or
- (c) deliberately disregards established procedure; or
- (d) deliberately obstructs the business of the meeting;

then the Chairman may name the Member and require them both to apologise and to correct their behaviour immediately, or to do either.

- 18.2 If a Member named by the Chairman under the paragraph above continues their misconduct, the Chairman may do any or all of the following at their discretion at any time during the meeting:

- (a) they may forbid the Member from speaking for some or all of the rest of the meeting;
- (b) they may order the Member to leave the meeting for all or part of the remaining business.
- (c) they may order the Member to be removed from the meeting.
- (d) they may adjourn the meeting for such period as they think fit

- 18.3 A Member may not impute improper motives, or use any offensive expression, to any other Member. The Chairman shall be the sole judge at the meeting of

when this rule has been broken. If a Member ignores or rejects his ruling he shall be dealt with under the two preceding paragraphs.

**Disturbance by members of the public**

- 18.4 If a Member of the public interrupts the proceedings at any meeting the Chairman shall issue them a warning. If the member of the public continues the interruption the Chairman shall order the member of the public's removal from the meeting room
- 18.5 In the event of a public disturbance, the Chairman may without question adjourn the meeting for such period as s/he considers expedient.

**General**

- 18.6 The decision of the Chairman as to acceptable conduct whether by members or the public shall be final.

**CPR 19 - Mobile phones, filming & recording of Meetings**

- 19.1 Audible alerts on mobile phones must be turned off.
- 19.2 Any recording or filming shall be undertaken in accordance with the Protocol included in Part 5 of the Constitution. The purpose of the Protocol is to provide guidance, particularly, for members of the public as well as the media on the taking of photographs and / or the audio / visual recording of any Council meeting held in public.
- 19.3 The Chairman of the meeting has absolute discretion to terminate or suspend any of these activities if, in his/her opinion, continuing to do so would prejudice or unduly disrupt proceedings at the meeting.
- 19.4 Whilst no prior permission is required, any person wishing to film, photograph or record such a meeting, is requested to advise the Chairman of the meeting of their intention to do so.
- 19.5 The Chairman of the meeting shall advise Members and the public that the meeting is being recorded. In order to maintain orderly conduct or prevent misbehavior or disruption of the meeting, the Chairman of the meeting may exclude any individual who is recording the meeting.
- 19.6 The protocol also refers to the use of "Social Media" at meetings and makes clear that there are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Chairman

does not consider their actions are disrupting the proceedings of the meeting leading to disorderly conduct and/or misbehaviour.

#### **CPR 20 - Voting**

- 20.1 Upon summation of a decision by the Chairman, in accordance with Standing Orders, a question may be decided by “unanimous consent” were the Chairman asks if a matter is agreed and no member objects. In the event of any member objecting, a formal vote shall be taken.
- 20.2 Except as otherwise provided, voting shall be on a show of hands of those present.
- 20.3 At a meeting of a decision making body any four Members may request that the vote be recorded to show who voted for and against the proposal and who abstained. For a recorded vote, an appropriate officer shall call the name of each Member present and that Member shall speak to indicate whether he votes for or against the motion or abstains, without further comment.
- 20.4 Unless a recorded vote has been taken, immediately after any vote has been taken, following a request to that effect from any member, their vote for or against the motion, or the fact that they did not vote, shall be recorded in the minutes.
- 20.5 The Chairman must ascertain the numbers voting for or against any motion or amendment, or for any candidate. They or an officer present shall inform the meeting of the numbers. Once the Chairman has satisfied themselves as to the totals their declaration of the result cannot be questioned.

#### **Second or casting votes**

- 20.6 If the votes are tied on any issue, the Chairman may use a second or casting vote as follows:
  - (a) If the Chairman voted at the same time as the other Members (i.e. used their first vote) they may use his second vote;
  - (b) if the Chairman did not vote at the same time as the other Members they may use their casting vote;
  - (c) the Chairman shall not delay their first vote in order to ascertain the voting figures and then use it to produce an equality of votes in order to use their second vote.
  - (d) the Chairman may decline, without explanation, to use either their second or casting vote;

If the votes remain tied at the end of the voting process the effect is that no decision has been taken on the matter in question and the motion being voted upon is lost.

**CPR 21 - Record of attendance**

- 21.1 The Democratic Services Officer is responsible for recording attendance at meetings.

**CPR 22 - Implementation of Committee Decisions**

- 22.1 Subject to the right of a Member to propose any motion to Council and for the Council to deal with that motion, all matters specified in the Terms of Reference shall usually be referred for consideration to Committees, Sub-Committees or Advisory Panels under whose names such matters appear. Committees shall be authorised to take such action as they think fit in relation to any matters falling within their Terms of Reference, subject to their reporting to Council with their recommendations thereon where matters of principle or policy are involved.
- 22.2 A decision of a policy committee or sub-committee which is vulnerable to call-in under Overview and Scrutiny Procedure Rules in this Part of this Constitution shall not be implemented until the fifth working day after it has been made.

