

Scrutiny Panel Agenda



SCRUTINY

 Epping Forest District Council

Constitution and Members Services Scrutiny Panel Monday, 16th February, 2015

You are invited to attend the next meeting of **Constitution and Members Services Scrutiny Panel**, which will be held at:

**Committee Room 1, Civic Offices, High Street, Epping
on Monday, 16th February, 2015
at 7.00 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

M Jenkins - The Office of the Chief Executive
Tel: 01992 564607
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors Mrs M Sartin (Chairman), A Watts (Vice-Chairman), D Dorrell, Mrs J Lea, Mrs M McEwen, J Philip, Mrs C P Pond, D Stallan, Mrs J H Whitehouse, G Waller and S Weston

SUBSTITUTE NOMINATION DEADLINE:

18:00

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. NOTES OF THE LAST MEETING (Pages 5 - 8)

To agree the notes of the last meeting of the Panel held on 27 November 2014 (attached).

4. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to

paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

5. TERMS OF REFERENCE / WORK PROGRAMME (Pages 9 - 12)

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. This is attached. The Panel are asked at each meeting to review both documents.

The OSC is about to formulate next years OS work plan incorporating a programme for this Panel. In view of this, the Panel may wish to bring forward suggestions/ideas on topics for inclusion in its work programme for next year.

6. REVIEW OF OPERATION OF PLANNING COMMITTEES AND TERMS OF REFERENCE (Pages 13 - 22)

(Director of Governance) To consider the attached report.

7. CONSTITUTION REVIEW - COUNCIL PROCEDURAL RULES (Pages 23 - 110)

(Assistant Director – Governance and Performance Management) To consider the attached report and appendix referred from the last meeting. Please bring your papers from the last agenda if possible. There will be spare copies available.

8. CHAIRMAN'S CASTING VOTE (Pages 111 - 114)

(Director of Governance) To consider the attached report.

9. MINORITY REFERENCES (Pages 115 - 118)

(Director of Governance) To consider the attached report.

10. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

To consider which reports are ready to be submitted to the Overview and Scrutiny Committee at its next meeting.

11. FUTURE MEETINGS

The next programmed meeting of the Panel will be held on Tuesday 3 March 2015 at 7.00p.m. in Committee Room 1 and then on Tuesday 17 March at the same time and venue.

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
PANEL
HELD ON THURSDAY, 27 NOVEMBER 2014
IN COMMITTEE ROOM 1
AT 7.00 - 8.55 PM**

Members Present: Mrs M Sartin (Chairman), A Watts (Vice-Chairman), Mrs J Lea, Mrs M McEwen, A Mitchell MBE, J Philip, Mrs C P Pond, D Stallan and Mrs J H Whitehouse

Other members present:

Apologies for Absence: D Dorrell, G Waller and S Weston

Officers Present S G Hill (Assistant Director (Governance & Performance Management)), P Maginnis (Assistant Director Human Resources), S Tautz (Democratic Services Manager) and M Jenkins (Democratic Services Assistant)

16. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor A Mitchell was substituting for Councillor G Waller.

17. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last Panel meeting held on 23 September 2014 be agreed subject to the following amendment:

Minute Item 13 Constitution Review – Initial Scoping Report, under “RESOLVED” (2) (a) “That the Panel create sub-groups to scrutinise sections of the Constitution and report back to the Panel” be amended to read “That, if and when the panel becomes overloaded with this task, sub-groups be appointed to scrutinise specific parts of the Constitution and report back to the Panel.”

18. DECLARATION OF INTERESTS

No declarations of interests were made pursuant to the Member Code of Conduct.

19. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel’s Terms of Reference were noted.

(b) Work Programme

It was advised that the Development Control Chairmen and Vice Chairmen’s meeting on 2 December 2014 would be discussing procedures at planning sub-committees which formed part of the Constitution Review. Their views would form part of a

subsequent discussion regarding planning sub-committees at the Planning Scrutiny Panel next month.

20. JOINT CONSULTATIVE COMMITTEE - REVIEW OF TERMS OF REFERENCE

The Panel received a report from the Assistant Director (Human Resources) regarding the Review of the Terms of Reference – Joint Consultative Committee.

Following a Management Board report in December 2012, it was acknowledged that the Terms of Reference for the Joint Consultative Committee (JCC) had not been reviewed for a period of considerable time. Therefore Management Board agreed that a review of the JCC should take place.

The JCC was the Council's forum whereby discussions took place with the recognised trade unions in line with the representations at a regional level. However the Performance Improvement Unit (PIU) had identified that non-union members were not represented at the JCC. Whilst technically correct, as trade unions were not required to represent non-union staff, it was noted that:

- (a) The trade union representatives who attended the Committee had to be employees of the Council;
- (b) There were 9 trade union representatives from a range of service areas who between them were likely to hold a range of views similar to employees who were not trade union representatives; and
- (c) All representatives, whether staff or member, were permitted to share their views with the Committee and did so.

It was advised that work was progressing outside the review of the JCC Terms of Reference regarding internal staff communications. The Council had appointed a graduate under the National Graduate Development Programme, the Council's Management Board had agreed that they carry out a review of staff communications/engagement. As part of the review they would draft and develop an Employee Engagement Strategy.

Currently, the Lead Officer for the JCC was in a position to be able to take forward the views of employees and present these to the committee. Additionally, there had been a specific responsibility added to the Terms of Reference to inform staff of the outcome of the Committee meetings via District Lines.

Members supported applying the current substitution rules to this committee.

RECOMMENDED:

That the Joint Consultative Committee's Terms of Reference be recommended to the Cabinet for approval.

21. CONSTITUTION REVIEW - ARTICLES

The Panel received a report and appendices from the Assistant Director Governance and Performance Management regarding the Constitution Review – Articles of the Constitution.

At their last meeting the Panel had agreed to commence their review of the Constitution with proposals for amended articles. The Panel received proposals for changes from officers, for these amendments and made further suggestions.

Some articles were recommended for re-writing and would be submitted to future Panel meetings and would be subject to consultation with Members and would be eventually require the assent of Full Council.

Members noted that in regard to Article 10 – Area Committees (Sub-Committees), a PICK form had been referred to the Planning Scrutiny Panel who would be discussing it on 9 December 2014 and making recommendations to this Panel. All re-drafted sections would be re-submitted for approval by the Panel at a subsequent meeting.

RECOMMENDED:

That the Assistant Director of Governance and Performance Management be requested to amend the relevant articles and re-submit new drafts to a future Panel meeting.

22. CONSTITUTION REVIEW - COUNCIL PROCEDURAL RULES

The Panel felt that they had made good progress on the Articles of the Constitution but this had left them little time to complete the evening's agenda. It was therefore decided to adjourn Item 8 Constitution Review – Council Procedural Rules to the Panel meeting scheduled for February 2015. Panel Members were requested to retain their copies of the current agenda for this meeting.

23. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

The Panel Chairman advised that she would provide a verbal update to the Overview and Scrutiny Committee at its next meeting on progress made with the Constitution Review.

24. FUTURE MEETINGS

The Panel was advised that its next scheduled meeting was on Tuesday 13 January 2015, however because key staff could not attend this meeting, it was agreed that the Panel would meet on Monday 16 February 2015.

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TERMS OF REFERENCE - STANDING PANEL

Title: Constitution and Member Services
Status: Standing Panel
Terms of Reference: 1. To undertake reviews of constitutional, civic, electoral and governance matters and services for members on behalf of the Overview and Scrutiny Committee. 2. To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.
Chairman: Councillor M Sartin

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Constitution and Member Services Standing Panel (Chairman – Cllr M Sartin)

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Review of Polling Stations	28 July 2014	COMPLETED	28 July 2014; 23 September; 18 November Changed to 27 November 2014 13 January 2015; 16 February 2015; 3 March; and 17 March
(2) Review of Elections	28 July 2014	COMPLETED	
(3) Joint Consultative Committee – Terms of Reference and Constitution regarding representation for non-union staff	27 November 2014	COMPLETED	
(4) Review of the Council's Constitution		Scoping report received 23 September 2014 To be completed by March 2016	
(5) Articles of the Constitution	Starting 27 November 2014	First draft considered November 2014, re-draft required for a later meeting.	
(6) Constitution – Minority References	16 February 2015		
(7) Constitution – Thresholds for Leases and Licences	16 February 2015	Maybe submitted to a later meeting	
(8) Constitution – Council Procedure Rules	Starting 27 November 2014	To be considered 16 February 2015	
(9) Constitution – Use of Chairman's Casting Vote	16 February 2015		

(10) Review of Operation of Planning Committees	16 February 2015	Report drafted – Referral from Planning Scrutiny Panel December 2014 meeting.	
(11) Review of operation of the Complaints Panel	3 March 2015	NEW – Subject to Review by Leadership team a report will be brought to the first March meeting	



Report to Constitution and Members Services Scrutiny Panel

Date of meeting: 16 February 2015

**Subject: Review of Operation of Planning Committees
and Terms of Reference**

SCRUTINY



Officer contact for further information: Simon Hill, Governance (Ext 4249)

Committee Secretary: Mark Jenkins (Ext 4243)

Recommendations/Decisions Required:

That a report be made to Overview and Scrutiny Committee and to Council recommending:

- (1) the adoption of the attached revised draft Article on the operation of and arrangements for planning Committees;**
- (2) the inclusion of the provisions within the Council's Constitution with immediate effect subject to a review during 2016; and**
- (3) the approval of consequential amendments to the constitution by the Monitoring Officer including the removal of old provisions and areas of duplication.**

Report:

1. (Assistant Director Governance and Performance Management) The Overview and Scrutiny Committee, at its meeting on 16 September 2014, referred a PICK request to the Planning Services Panel. The request was sponsored by the Chairman of the District Development Control Committee, Councillor Brian Sandler.

2. The Planning Services Panel, at its meeting on 9 December 2015 looked at the following matters:

(i) The operation of the speaking arrangements and deadlines for submission of material for the Planning subcommittees as currently contained within the rules for participation on planning matters to include:

- (a) Classes and types of speakers, duration and registration arrangements and deadlines;
- (b) The extent of Chairman's discretion on such matters;
- (c) Procedure for other submissions and photographic material;

(ii) The terms of reference of the Planning subcommittees and District Development Control Committee to include:

- (a) Definitions of applications of major importance;
- (b) Clarification of the mechanism for referrals from Planning Subcommittees
- (c) The role of the Leader as currently defined in the DDCC's terms of reference.
- (d) How the Council's own applications are dealt with.

3. The operation of arrangements for speaking at planning meetings has never been substantively reviewed since they began in 2006. The review is timely for two reasons; firstly the review of the Constitution into which this review fits neatly. Secondly there have recently

been a number of 'complaints' about operation (mainly from applicants/objectors).

4. Having discussed, in some detail, the operation of the Planning meetings at both the Development Control Chairmen and Vice Chairmen's meeting and the Planning Services Scrutiny Panel, Officers have been able to codify members wishes into the attached revised Article of the Constitution.

5. This revised Article sets out the membership of the committees, responsibility for functions, terms of reference and participation and site visits rules.

6. It is considered by the Planning Panel that these rules should be implemented in advance of the completion of the Constitution Review to allow a period of operational experience to be undertaken with a check in 2016 to make sure that they are still appropriate.

7. Members are asked to consider the revised Article for incorporation into the Constitution and recommend to Overview and Scrutiny and Council accordingly.

Reason for decision:

8. A review of the whole of the Constitution is ongoing. The review will alter the arrangements of sections of the Constitution. A PICK form requesting that review be undertaken has been received and considered by the Planning Services Panel and requires the endorsement of this Panel.

Options considered and rejected:

9. The Panel could recommend no change to current rules or could bring forward alternative proposals. Changes to the Constitution are reserved to the full Council.

Consultation undertaken:

19. Consultation has been undertaken with both the Development Control Chairmen and Vice Chairmen's meeting and the Planning Services Scrutiny Panel

Resource implications:

Budget provision: From existing
Personnel: From existing
Land: Nil

Relevant statutory powers: Town and Country Planning Acts

Background papers: Revised Article, Current Constitution
Environmental/Human Rights Act/Crime and Disorder Act Implications: none
Key Decision reference: (if required) Not a key decision

Draft New Article

District Development Control Committee and Area Plans Subcommittees.

The Council will establish the following Committees which shall be appointed by the Council at its annual meeting.

Membership

- (1) The following shall be the non-executive committees of the Council, consisting of the number of members set out below:

Committee or Sub-Committee	Number of Councillors	Membership
District Development Control Committee	15	15 members of the Council appointed by the Council at its Annual meeting, subject to pro rata requirements and including those members appointed as Chairman of each Area Planning Subcommittee. <u>Members to be appointed on the basis of aptitude, interest and planning experience</u>
Area Plans (South) Sub-Committee	25 members (Max)	Area Plans Sub-Committee South – All District Wards in the Parishes of Buckhurst Hill, Chigwell and Loughton. – subject to (3) below and quorum requirements set out in the Council rules
Area Plans (East) Sub-Committee	19 members	Area Plans Sub-Committee East – District Wards of Epping Hemnall, Epping Lindsey and Thornwood Common, North Weald Bassett, Theydon Bois and Lambourne, Passingford, Chipping Ongar, Greensted and Marden Ash, Shelley, High Ongar, Willingale and The Rodings, Hastingwood, Matching and Sheering Village, Lower Sheering, Moreton and Fyfield.
Area Plans (West) Sub-Committee	14 members	Area Plans Sub-Committee West - All District Wards in the Parish of Waltham Abbey together with the District Wards of Lower Nazeing, Broadley Common, Epping Upland & Nazeing and Roydon.

- (2) Members of the Council appointed to each Area Plans Sub-Committee shall be drawn solely from those representing wards within the area for which the Sub-Committee is responsible shown in column three above. Seats on each Sub-Committee shall be allocated to all Councillors representing electoral wards in the areas concerned. The requirement for the appointment of Sub-Committees from all members of the Council shall not apply to the Area Plans Sub-Committees.
- (3) The Area Plans Sub Committee (South) shall comprise a maximum of 25 Councillors, being the total number representing wards in the area for which the Sub Committee is responsible. At the Annual Council meeting, the Council shall determine the membership of that Sub Committee on the basis of the number of Councillors who sign a written notice stating that they wish to serve on the Area Sub Committee for the ensuing year. Any Councillor who does not sign a notice shall be deemed not to be a member of the Sub Committee for the year in question. Councillors may not retract a signed notice or seek to join the Sub Committee by signing a notice until the next Annual Council meeting.
- (4) A member of the executive may serve on an Area Plans Sub-Committee if otherwise eligible to do so as a Councillor.

Responsibility for functions:

The Committee and Subcommittees the subject of this Article have responsibility for determining matters which have been delegated by the Council and the Executive shown in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions and any limitations on delegation.

Terms of Reference:

District Development Control Committee

- (1) To determine:
 - (a) Any development proposals which affect more than one Area Plans Subcommittee;
 - (b) Any 'major' application (as defined within guidance issued by the DCLG) and where the Council is the land owner.
 - (c) Any application referred by an Area Plans Sub-Committee by resolution, by a minority of members of an Area Plans Sub-Committee in accordance with the Council's Rules or where the Subcommittee is unable to determine the application.
- (d) To determine any recommendation of an Area Plans Sub-Committee which relates to potential decisions liable to give rise to claims for costs or compensation including development control matters and enforcement of planning requirements (including recommendations of no action) but excluding works on preserved trees.
- (e) Any planning application or other planning matter submitted by, or on behalf of, a Councillor of the Authority (and/or a spouse or partner thereof).
- ~~(f) Any departure applications or proposals for development of which the Committee approve but which would have to be notified to the Secretary of State under the prevailing Town and Country Planning (Development Plans and Consultation) Direction as being development which, by reason of its scale or~~

~~nature or the location of the land would significantly prejudice the implementation of development plans, policies and proposals.~~

Area Plans Subcommittees:

- (1) To consider all applications (except as may be delegated to the Assistant Director Governance – Development Management or fall to the District development Control Committee to determine as set out above) received for development within their Subcommittee Area and, except as detailed below, to make decisions on behalf of the district planning authority thereon.
- (2) Subject to the prior approval of the Chairman of the Subcommittee, to consider informal proposals for development and to give guidance to planning officers.
- (3) To consider planning applications made by other authorities which are considered by the Assistant Director Governance – Development Management to require member response.
- (4) To consider and make recommendations to the District Development Control Committee on applications for development within their Subcommittee Area where:
 - (i) the Sub-Committees proposed decision is a substantial departure from
 - (a) the Council's approved policy framework; or
 - (b) the development or other approved plan for the area; or
 - (c) it would be required to be referred to the Secretary of State for approval as required by current government circular or directive**
 - (ii) the refusal of consent may involve the payment of compensation; or
 - (iii) the District Development Control Committee have previously considered the application or type of development and has so requested; or
 - (iv) the Sub-Committee wish, for any reason, to refer the application to the District Development Committee for decision by resolution.
- (5) Applications made by staff of the Council defined in Appendix A of the Planning Services Scheme of Delegation which are required to be determined by subcommittee.
- (6) Where an application is objected to by a Councillor in a purely personal capacity.

Public Participation at District Development Control Committee and Area Sub-Committees on Planning Matters

- (1) There shall be afforded to those classes of persons specified in the rules for participation at Appendix 1 to this Article an opportunity, on request, to make oral representations to any Area Plans Sub-Committee (or in appropriate circumstances, the District Development Control Committee) meeting concerning any planning application or related matter before that Sub-Committee for determination.

(2) The procedure for dealing with requests to address an Area Plans Sub-Committee or the District Development Control Committee shall be as prescribed from time to time by the Council and as set out in Appendix 1.

Site Visits

(1) Site Visits may be undertaken of any potential development site subject to application where there is a substantial benefit to the decision-making process. Such a visit may be approved by the Subcommittee at the meeting where they are being asked to determine the matter or in advance on the recommendation of planning officers in consultation with the Chairman of the Committee.

(2) Site Visits will be undertaken following the guidance at Appendix 2 to this Article.

**RULES FOR PARTICIPATION ON PLANNING MATTERS AT COUNCIL,
AREA PLANS SUB AND DISTRICT DEVELOPMENT CONTROL COMMITTEE
MEETINGS**

1. The following persons shall be able, on request, to address the appropriate Area Plans Sub-Committee and District Development Control Committee on any planning application or related matter within its terms of reference and included on any agenda for a period of three minutes:
 - (a) one objector ~~(except where, in the light of exceptional circumstances approved by the Chairman of the Sub-Committee, additional speakers are allowed);~~
 - (b) one representative of any relevant Parish or Town Council ~~(except where in the light of exceptional circumstances approved by the Chairman of the Sub-Committee representations from other Parish or Town Councils are given in person)~~ for the purpose of explaining the views of that Council on the matter in question;
 - (c) one representative of any other authority consulted on the application or as a statutory consultee **where they have so requested.**
 - (d) an applicant (or one nominated agent or representative);
 - (e) in the case of planning applications which ~~the Head of Planning and Economic Development deems to~~ have a District wide significance, it shall be permissible for the Chairman of an Area Plans Sub-Committee or the Development Committee, on the recommendation of the Head of Planning and Economic Development, to allow any Parish or Town Council to comment on such an application.
2. For the purposes of this Standing Order the definition of "planning application or any related matter" shall not include any existing or proposed enforcement act under the Planning Acts.
3. ~~Subject to the proviso under 1(b) above, the number of speakers shall be limited to the three.~~

Issues here: (1) Can they split their time between two or more? (2) What happens when the Chairman allows more than one objector or parish to speak?

3. The Chairman of the Committee or Subcommittee may allow additional speakers in exceptional circumstances

~~4. Notice of at least one working day is required from any person wishing to address an Area Plans Sub-Committee.~~

4. Persons wishes to address the Committee or subcommittee are required to register with Democratic Services by 4.00 pm on the day before the meeting. The Chairman may make changes or additions to speakers after that time at their decretion.

5. Persons addressing an Area Plans Sub-Committee shall be allowed no more than three minutes to present their case. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.
6. Written submissions and photographic or similar material will not be considered by an Area Plans Sub-Committee or District Development Control Committee. **Any written submissions received after the agenda is produced will be verbally summarised and reported to the Committee**. ~~unless they have been received by the Chairman of the Sub-Committee, Ward Councillors and Head of Planning and Economic Development before the meeting. Such submissions or other material may, at the discretion of the Chairman be admitted to the meeting if he or she that it is significant.~~

~~ISSUES: Could this be instead that no submissions and photographic materials may be tabled at Area Plans Subcommittee or District Development Control Committee meetings. Material may be incorporated into the planning officers presentation if (i) received by Planning Officers by the speaking deadline; (ii) It is a significant material planning matter.~~

- ~~7. The right to address an Area Plans Sub-Committee shall be extended to the District Development Control Committee (but not to the Council) in the event of any planning matter being referred by an Area Plans Sub-Committee or in respect of any planning matter submitted direct to that Committee.~~
- ~~8. Any matter deferred by an Area Plans Sub-Committee or the District Development Control Committee shall entitle any applicant, objector or parish/town council representative a further right to address the Sub-Committee when the matter is reconsidered.~~
- 7. The right to address the Committees is extended to both the Area Planning Subcommittees and District Development Control Committee (but not to Council). Having previously made representations at an Area Subcommittee does not preclude any applicant, objector or parish/town council representative from speaking again when the matter is reconsidered.**

Guidance for Members at Site Visits

Formal site visits may be requested by any Planning Committee. These can be requested either before a planning meeting or resolved at the meeting concerned. However, these consume resources and delay determination of an application. It is good practice to consider site visits only where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious.

It is recognised that Councillors are subject to lobbying on specific applications. In such cases, it is essential that care is taken to maintain the Council's and its members' integrity so as to protect the credibility of the planning process.

Councillors are asked to bear in mind the following guidance when undertaking planning site visits so as to avoid the perception of pre-determination.

- Site visits should be undertaken at an agreed predetermined time and conducted in a single group with a planning officer present at all times.
- Members of the committee concerned are encouraged to attend site visits.
- The site visit is managed by the Chairman, Vice-Chairman or planning officer present. The Chairman or Vice Chairman will remind Councillors of the guidance at the beginning of each visit. Members of the committee or subcommittee should not enter into discussions with interested parties, such as the applicant, the agent or neighbours during the visit.
- Councillors/Planning Officers should not allow interested parties to use the site visit as an opportunity of lobbying members of the committee. It is made clear to other parties at the outset that the purpose is to gather information and to view the site only.
- Any questions from Councillors should be limited to questions of fact and directed, in the first instance, to the planning officer present and not directly to interested parties present.
- In the interests of fairness to all parties, members as a single group should consider the desirability of viewing an application site from more than one property when the site visit is arranged.
- Councillors must ensure that the application is not determined at the site visit
- Councillors should avoid acceptance of any hospitality at a site visit which could be misinterpreted by third parties.

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Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: **November 2014**

Subject: Constitution Review – Council Procedural Rules

Officer Contact for further Information: Simon Hill (01992 56 4249)

Democratic Services Officer: Mark Jenkins (01992 56 4607)

Recommendations:

- (1) To consider proposals for the amalgamation of all current procedural rules within one Section of the future constitution; and**
- (2) To consider initial ideas of how such a rules section might appear based upon the Council procedural rules.**

Report:

1. (Assistant Director Governance and Performance Management) Initial review of the Constitution reveals that procedural rules are spread across a number of different parts. Indeed some of the non-executive bodies have rules that spread across the Council procedure rules and operational standing orders.

2. It is suggested that a single 'rules' section is created that contains all of the rules across the constitution in one place. This will entail the disaggregation of the Terms of Reference and procedures relating to each body. It is suggested elsewhere that the most appropriate place for this information is within reworked Articles.

3. This would leave their rules of operation. In the appendix to this report is a suggested format. Officers have used a table format. For each rule the final column would indicate which of the Council's bodies it applied to. There are columns for Council, the Executive, Overview and Scrutiny and other non-executive bodies. An X or tick in the column would denote whether a rule applied or not.

4. In the appendix the main Council procedure rules have been treated in this way. In addition the Executive procedure rules and have been added in green; applicable Overview and Scrutiny rules in Blue and Non Executive Operational Standing Orders in Red. The 'remaining' elements of those sets of rules is shown in the appendix for completeness. Work on the Articles would be required to ensure that they reflect the remaining procedures fully. The work has highlighted a number of areas where text is duplicated.

5. The proposals are seen as a work in progress. As work progresses on the Constitution further elements may be appropriate for inclusion. Members are asked to comment on the suggested way forward.

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COUNCIL RULES

CONTENTS

To be completed:

DRAFT COUNCIL RULES – DISCUSSION DOCUMENT

Application:

Rules and procedures shown in columns 2 and 3 shall be applicable to those bodies as are in the Application columns 4,5,6 and 7 using the following key:

C – Council

E – Executive

O – Overview and Scrutiny Committee and Panels

NE – Other non Executive and Regulatory Committees, Subcommittees, Panels and Working Groups

No	Rule	Procedure	Application			
			C	E	O	NE
1.	ANNUAL MEETING OF THE COUNCIL - PROCEDURE	<p>In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May June?</p> <p>The annual meeting will:</p> <ul style="list-style-type: none"> (i) elect a person to preside if the Chairman of Council is not present; (ii) elect the Chairman of Council; (iii) elect the Vice-Chairman of Council; (iv) approve the minutes of the last meeting; (v) receive any announcements from the Chairman; 				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>(vi) elect the leader;</p> <p>?? Receive a report from the Appointments Panel recommending?? NEW</p> <p>(vii) appoint at least one Overview and Scrutiny Committee, a Standards Committee, an Audit and Governance Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3, Table 1 of this Constitution;</p> <p>(viii) appoint Chairmen and Vice-Chairmen to those bodies;</p> <p>(ix) agree the scheme of delegation excluding delegation of executive functions which are the responsibility of the Leader of Council;</p> <p>(x) approve a programme of ordinary meetings of the Council for the year;</p> <p>(xi) consider any business set out in the notice convening the meeting;</p> <p>(xii) receive a work programme for the Executive and a joint work programme for Overview and Scrutiny Committees for the ensuing year;</p> <p>(a) The Executive shall submit to the Council at its annual meeting a work programme for the following Council year. The Overview and Scrutiny Committee shall submit an annual report to the Council in April each year on work undertaken during the preceding 12 months.</p> <p>(xiii) be notified of Group Leaders and Deputies and Group representatives on relevant Committees;</p> <p>(xiv) to debate and respond to petitions where the number of signatures meets or exceeds the trigger level contained in the Council's petitions scheme; and</p> <p>(xv) be notified by the Leader of the Council of appointments to the Cabinet, on the establishment of Cabinet Committees, delegation of executive responsibilities to Cabinet members and officers and appointments to outside organisations carrying out executive functions.</p> <p>1.2 Delegation by the Leader</p> <p>At the Annual Meeting of the Council, the Leader will present to the Council a written record of</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>additional delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:</p> <ul style="list-style-type: none"> (i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority; (ii) the terms of reference and constitution of such executive committees as the leader appoints and the names of executive members appointed to them; (iii) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and (iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made. <p>1.2 Selection of Councillors on Committees and Outside Bodies</p> <p>At the annual meeting, the Council will:</p> <ul style="list-style-type: none"> (i) decide which committees to establish for the municipal year excluding those committees which are the responsibility of the Leader of Council; (ii) decide the size and terms of reference for those committees; (iii) decide the allocation of seats to political groups in accordance with the political balance rules; (iv) receive nominations of councillors to serve on each committee and outside body excluding those committees and outside bodies which are the responsibility of the Leader of the Council; and 				

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		(v) appoint to those committees and outside bodies except where such appointments are exercisable only by the executive.				
2.	COUNCIL - ORDINARY MEETINGS	<p>Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:</p> <ul style="list-style-type: none"> (i) elect a person to preside if the Chairman and Vice-Chairman are not present; (ii) approve the minutes of the last meeting; (iii) receive any declarations of interest from members; (iv) receive any announcements from the Chairman, Leader of the Council, members of the Executive; (v) receive questions from, and provide answers to, the public and members of the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting; (vi) receive reports from the Leader of the Council on the appointment of a Deputy Leader, the Cabinet, Cabinet Committees, Responsibilities of Cabinet members, appointments to outside organisations which are the responsibility of the Executive and delegation of Cabinet functions to officers; (vii) receive a report from the Leader of the Council on any delegation of executive functions to Joint Committees and local Committees; (viii) receive written reports from the Leader, Chairman of Overview and Scrutiny Committee and each of the Portfolio Holders and receive questions and answers on any of those reports or any matters falling within their area of responsibility; (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations; (x) consider motions; (xi) receive questions in the following order: <ul style="list-style-type: none"> 1. Public Questions 2. Questions under Notice by Councillors 				

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		<p>3. Questions by Councillors to the Leader of Council, Cabinet members and the Chairman of the Overview and Scrutiny Committee on written reports submitted under Rule 12.6 and on questions without notice on other matters submitted under Rules 12.8 & 12.9;</p> <p>(xii) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate, including annual reports for both Overview and Scrutiny Committees and the Executive on their activities in April of each Council year;</p> <p>(xiii) any matter of public concern allocated to any ordinary Council meeting for the purpose of debate;</p> <p>(xiv) deal with any items of business deemed by the Chairman as urgent business in accordance with Section 100B(4) of the Local Government Act 1972.</p> <p>(b) The Executive shall submit to the Council in April each year a report on its activities in the last Council year.</p>				
2.2	<p>State of the District Debates</p> <p>STILL REQUIRED?</p>	<p>(i) Calling of debate</p> <p>The Leader will call a State of the District debate annually on a date and in a form to be agreed with the Chairman.</p> <p>(ii) Form of debate</p> <p>The Leader will decide the form of debate, with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of the District debate.</p> <p>(iii) Results of debate</p>				

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		<p>The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area; and considered by the Leader in proposing the budget and policy framework to the Council for the coming year.</p> <p>2.3 Single Issue Council Meetings</p> <p>The Leader may, from time to time, call for a Council meeting to be held dealing with a single issue of critical importance to the residents of the District. The normal rules of debate will apply in the case of 'single issue' Council meetings.</p>				
3.	EXTRAORDINARY MEETINGS – CALLING OF AND BUSINESS AT	<p>(1) Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:</p> <p>(i) the Council by resolution;</p> <p>(ii) the Chairman of the Council;</p> <p>(iii) the Monitoring Officer; and</p> <p>(iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</p> <p>(2) An extraordinary meeting of the Council shall transact the business set out in the agenda but shall exclude motions under Procedure Rule 13..</p> <p>?? CALLING OF EXTRAORDINARY MEETINGS OF OTHER BODIES?</p>				
4.	TIME AND PLACE OF MEETINGS	<p>(1) Meetings of the Council shall be held at the Civic Offices, High Street, Epping at 7.30 p.m. or at such other time or venue as the Chairman of the Council may determine in consultation with</p>				

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		<p>the Chief Executive.</p> <p>(2) All business at Council meetings shall be completed by 10.00 p.m.;</p> <p>(3) The time and place of other meetings of the authority shall be agreed with the Chairman of the meeting concerned and approved by that committee at its next meeting. NEW</p> <p>Executive Meetings - When and Where?</p> <p>The Executive will meet at times to be agreed by the Leader. The executive shall meet at the Civic Offices, High Street, Epping, Essex CM16 4BZ or another location to be agreed by the Leader. Meetings will commence at 7.00 p.m.</p>				
5.	CANCELLATION OF MEETINGS	The decision to cancel any meeting of the Council shall be made by the Chairman in consultation with the Chief Executive (or his representative). In circumstances where a meeting has to be cancelled for reasons which are outside the Council's control at short notice, the decision to cancel shall be made no later than 2 hours before the commencement of the meeting and notified to all Councillors and other interested persons as soon as possible thereafter.				
6.	NOTICE AND SUMMONS TO MEETINGS	The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, one or both of the Joint Chief Executives will send a summons signed by him or them by post to every member of the Council, leave it at their usual place of residence or posted or delivered to some other address that a member may notify in writing. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.				
7.	CHAIRMAN OF MEETING	The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees, Sub-Committees, Boards and Panels.				

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		<p>2.1 Who Presides?</p> <p>If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the event that both the Leader and Deputy Leader are absent, the Executive will appoint a person from among those present to preside at that meeting.</p> <p>The member of the Executive appointed, as Chairman of any Executive Committee will preside at that meeting of that Committee at which he/she is present. If the appointed Chairman is absent, another member from those present shall preside for all or part of the meeting in question.</p>				
8.	QUORUM	<p>The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.</p> <p>Add rules for plans subs here</p> <p>1.8 Quorum</p> <p>The quorum for a meeting of the Cabinet, shall be 5 members of the executive. The quorum for a Cabinet Committee shall be three members. Appendix 1 to these rules sets out procedures for safeguarding the Cabinet quorum in exceptional circumstances.</p>				
9.	INTERESTS	<p>(1) Any member of the Council who has registered a disclosable pecuniary interest or has a pending notification of such interest in any items of business to be considered by the authority, must withdraw from the Council Chamber (or other meeting room) including the public gallery during the whole consideration of that item except if he or she is permitted to remain as a result of a dispensation.</p>				

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		<p>(2) Such requirements shall also apply to any Cabinet members with a disclosable pecuniary interest (including a pending notification) who shall be debarred from determining any matter which they would otherwise have dealt with as a portfolio holder under delegated authority.</p> <p>(3) Where a member of the Council has not registered such an interest or does not have a pending notification, they shall declare the existence and nature of that interest and withdraw from the meeting during discussion of any relevant item of business.</p> <p>1.5 Conflicts of Interest</p> <p>(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</p> <p>(b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</p> <p>(c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</p>				
10.	DURATION OF MEETING	<p>(1) All business of the Council requiring to be transacted in the presence of the press and public shall be completed by 10.00 p.m. at the latest.</p> <p>(2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.</p>				

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		(3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.				
11.	QUESTIONS BY THE PUBLIC	<p>11.1 General</p> <p>Members of the public may ask questions of the Leader, Chairman of Overview and Scrutiny Committee or any Portfolio Holder at ordinary meetings of the Council and Cabinet</p> <p>11.2 Order of Questions</p> <p>Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.</p> <p>11.3 Notice of Questions</p> <p>A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive at least 4 working days before the meeting. Each question must give the name and address of the questioner and must name the member of the Council (or Cabinet) to whom it is to be put.</p> <p>11.4 Number of Questions</p> <p>At any one meeting no person may submit more than two questions and no more than two such questions may be asked on behalf of one organisation.</p> <p>11.5 Scope of Questions</p> <p>The Chief Executive may reject a question if it:</p> <p>(a) is not about a matter for which the local authority has a responsibility or which affects the</p>				

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		<p>District;</p> <p>(b) is defamatory, frivolous or offensive;</p> <p>(c) is substantially the same as a question which has been put at a meeting of the Council or Cabinet in the past six months; or</p> <p>(d) requires the disclosure of confidential or exempt information.</p> <p>11.6 Record of Questions</p> <p>The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members on the agenda for the relevant Council meeting, which will be made available to the public attending the meeting.</p> <p>11.7 Asking the Question at the Meeting</p> <p>The Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.</p> <p>11.8 Supplemental Question</p> <p>A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply and must be only for purposes of elucidation. The Chairman may reject a supplementary question on any of the grounds in Rule</p>				

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		<p>10.5 above.</p> <p>11.9 Written Answers</p> <p>Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.</p> <p>11.10 Non Attendance of Questioner</p> <p>Where the member of the public who has given notice of a question is not in attendance at the Council meeting at which the question is to be put, a reply will be sent to the questioner in writing or by electronic mail and published in the minutes of the meeting and the Council Bulletin.</p> <p>11.11 Reference of Question to the Executive or a Committee/Sub-Committee</p> <p>Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.</p> <p>6. REQUESTS BY THE PUBLIC/OUTSIDE ORGANISATIONS TO ADDRESS THE CABINET</p> <p>6.1 Any member of the public or a representative of an outside organisation may address the Cabinet on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting.</p> <p>6.2 The following rules shall apply to such requests:</p> <p>(i) requests must relate to any existing agenda item;</p> <p>(ii) requests must not raise new business for the meeting concerned;</p>				

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		<p>(iii) all requests must be notified to the Council by 4 pm on the day of the meeting;</p> <p>(iv) requests accompanied by proposals to circulate written material must be received three working days before the meeting in time to be sent to Cabinet members in advance of the meeting;</p> <p>(v) requests need not be in writing;</p> <p>(vi) a maximum of two persons shall be permitted to address the Cabinet on any one agenda item;</p> <p>(vii) a time limit of 3 minutes per speaker shall apply;</p> <p>(viii) the Cabinet shall be able to ask questions on any comments made;</p> <p>(ix) the Leader of the Council shall have discretion as to whether to limit the number of persons wishing to address the Cabinet if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.</p> <p>(x) this procedure shall not apply to Cabinet Committees</p>				
12.	QUESTIONS BY MEMBERS	<p>12.1 On Reports of the Executive or Committees</p> <p>A member of the Council may ask the Leader, or the Chairman of Overview and Scrutiny or a Portfolio Holder any question without notice on an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council.</p> <p>12.2 Questions Following Notice at Full Council</p> <p>Subject to Rule 11.4, a member of the Council may ask:</p>				

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		<p>(a) the Chairman;</p> <p>(b) the Leader;</p> <p>(c) a Portfolio Holder</p> <p>(c) the Chairman of any Committee or Sub-Committee</p> <p>(d) a question on any matter in relation to which the Council has powers or duties or which affects the Epping Forest District.</p> <p>12.3 Notice of Questions</p> <p>A member may only ask a question under Rule 12.2 if either:</p> <p>(a) they have given at least four working days' notice in writing of the question to the Chief Executive; or</p> <p>(b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Chief Executive by 10.00 a.m. on the day of the meeting.</p> <p>12.4 Replies to Questions</p> <p>An answer may take the form of:</p> <p>(a) direct oral answer;</p> <p>(b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or</p>				

No	Rule	Procedure	Application			
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		<p>(c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.</p> <p>Answers to questions falling within categories (a) and (b) above shall be made available to the member asking the question one hour before the meeting of the Council at which the question will be put. Answers to questions under (c) above will be circulated to all Councillors.</p> <p>12.5 Supplementary Question</p> <p>A member asking a question under Rule 11.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.</p> <p>12.6 Questions without notice at full Council</p> <p>A member of the Council may ask the Leader, Chairman of Overview and Scrutiny or any member of the Cabinet any question without notice on any non-operational matter in relation to which the Council has powers or duties or which affect the administrative area covered by the (Epping Forest District Council) or part of it or the inhabitants of that area or some of them, or which relates to a written response given by the Leader, Chairman of Overview and Scrutiny Committee or a member of the Cabinet.</p> <p>12.7 Response to a question without notice</p> <p>An answer to a question without notice may take the form of:</p> <p>(a) direct oral answer from the Leader or, at the request of the Leader, from another member of the Cabinet;</p> <p>(b) direct oral answer from the Chairman of the Overview and Scrutiny Committee or, at their</p>				

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		<p>request, from another member dealing with that issue as part of an Overview and Scrutiny review;</p> <p>(c) where the desired information is in a publication of the Council or other published work, a reference to that publication;</p> <p>(d) where the reply cannot be conveniently be given orally, a written answer circulated later to the questioner; or</p> <p>(e) where the question relates to an operational matter, the Leader, Chairman of Overview and Scrutiny Committee or a member of the Cabinet will request that a response be given direct to the questioner by the relevant Chief Officer.</p> <p>12.8 Time Limit for Questions without Notice to the Leader of Council & Portfolio Holders on Written Reports and Other Matters</p> <p>(a) A time limit of 30 minutes shall be set for questions under Rule 12.6. Any question which cannot be dealt with within the time available will receive a written reply.</p> <p>(b) Questions without notice on written reports and on other matters will be dealt with by the Chairman of the Council as follows:</p> <p>(i) by extending the period of thirty minutes by up to 10 minutes at his or her discretion; and</p> <p>(ii) by ensuring that questions by members are dealt with in the order in which they are put and that all questions from each political group and from independent members receive a reply.</p> <p>12.9 Time Limit for Questions without Notice to the Chairman of the Overview & Scrutiny Committee on Written Reports and Other Matters</p> <p>(a) questions without notice on reports of the Chairman of the Overview & Scrutiny Committee and on any other matter affecting Overview & Scrutiny will be dealt with at the same time as other</p>				

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		<p>business from that Committee; and</p> <p>(b) the Chairman of the Council shall apply the rules for questions without notice the Leader of the Council and Cabinet members (set out in Rule 12.8 above) to questions to the chairman of the Overview & Scrutiny Committee.</p> <p>12.10 Supplementary Question</p> <p>The will be no supplementary questions permitted in respect questions put under Rules 12.8 and 12.9.</p>				
13	MOTIONS - ON NOTICE	<p>13.1 Notice of Motion</p> <p>Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least the mover and seconder of the proposed motion, must be delivered to one of the Joint Chief Executives not later than seven working days before the date of the meeting. These will be entered in a book open to public inspection.</p> <p>13.2 Motions to be set out in Agenda</p> <p>Motions for which notice has been given will be listed on the agenda in the order in which each notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it. Any motion involving executive functions shall automatically stand referred to the Cabinet and any motion which deals with the Council's policy or budget frameworks, the Constitution or any matter requiring the consent of the Council, shall be subject to a report back to the next appropriate Council meeting.</p> <p>13.3 Scope of Motions</p> <p>Motions must be about matters for which the Council has a responsibility or which affect the</p>				

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		Epping Forest District.				
14.	MOTIONS - WITHOUT NOTICE	<p>The following motions may be moved without notice:</p> <p>(a) to appoint a Chairman of the meeting at which the motion is moved;</p> <p>(b) in relation to the accuracy of the minutes;</p> <p>(c) to change the order of business in the agenda;</p> <p>(d) to refer something to an appropriate body or individual;</p> <p>(e) to appoint a committee or member arising from an item on the summons for the meeting but excluding those appointments which are the responsibility of the Leader of Council;</p> <p>(f) to receive reports or adoption of recommendations of the Executive, Committees or officers and any resolutions following from them;</p> <p>(g) to withdraw a motion;</p> <p>(h) to amend a motion;</p> <p>(i) to proceed to the next business;</p> <p>(j) closure motion - that the question be now put (see Procedure Rule 14.11);</p> <p>(k) closure motion - to adjourn a debate (see Procedure Rule 14.11);</p> <p>(l) closure motion - to adjourn a meeting (see Procedure Rule 14.11);</p> <p>(m) that Rule 8 (relating to completion of business in public session be waived to permit the public session to continue beyond 10.00 p.m.</p> <p>(n) to suspend a particular council procedure rule;</p> <p>(o) to exclude the public and press in accordance with the Access to Information Rules;</p> <p>(p) not to hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4;</p> <p>(q) to extend the time allowed for any member's speech under Rule 14.4; and</p> <p>(r) to give the consent of the Council where its consent is required by this Constitution.</p>				
15.	RULES OF DEBATE - MOTIONS	<p>15.1 No Speeches until Motion Seconded</p> <p>No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.</p>				

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		<p>15.2 Right to Require Motion in Writing</p> <p>Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.</p> <p>15.3 Seconders' Speech</p> <p>When seconding a motion or amendment, a member may reserve their speech until later in the debate.</p> <p>15.4 Content and Length of Speeches</p> <p>Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Council.</p> <p>15.5 When a Member may Speak Again</p> <p>A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:</p> <ul style="list-style-type: none"> (a) to speak once on an amendment moved by another member; (b) to move a further amendment if the motion has been amended since he/she last spoke; (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried); (d) in exercise of a right of reply; (e) on a point of order; and (f) by way of personal explanation. <p>15.6 Amendments to Motions</p>				

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		<p>(a) An amendment to a motion must be relevant to the motion and will either be:</p> <p>(i) to refer the matter to an appropriate body or individual for consideration or reconsideration;</p> <p>(ii) to leave out words;</p> <p>(iii) to leave out words and insert or add others; or</p> <p>(iv) to insert or add words as long as the effect of (ii) to (iv) is not to negate the motion.</p> <p>(b) only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.</p> <p>(c) if an amendment is not carried, other amendments to the original motion may be moved.</p> <p>(d) if an amendment is carried, the motion as amended takes the place of the original motion becoming the substantive motion to which any further amendments may be moved.</p> <p>(e) after an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.</p> <p>15.7 Alteration of Motion</p> <p>(a) A member may alter a motion of which he/she has given notice with the consent of the Council. The Council's consent will be signified without discussion.</p> <p>(b) A member may alter a motion which he/she has moved without notice with the consent of both the Council and the seconder. The Council's consent will be signified without discussion.</p> <p>(c) Only alterations which could be made as an amendment may be made.</p> <p>15.8 Withdrawal of Motion</p> <p>A member may withdraw a motion which he/she has moved with the consent of both the meeting</p>				

No	Rule	Procedure	Application			
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		<p>and the seconder. The Council's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused by the Council.</p> <p>15.9 Right of Reply</p> <p>(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.</p> <p>(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.</p> <p>(c) The mover of the amendment has no right of reply to the debate on his or her amendment.</p> <p>15.10 Motions which may be Moved during Debate</p> <p>When a motion is under debate, no other motion may be moved except the following procedural motions:</p> <p>(a) to withdraw a motion;</p> <p>(b) to amend a motion;</p> <p>(c) to proceed to the next business;</p> <p>(d) that the question be now put;</p> <p>(e) to adjourn a debate;</p> <p>(f) to adjourn a meeting;</p> <p>(g) that Rule 9 (relating to completion of business in public session be waived to permit the public session to continue beyond 10.00 p.m.)</p> <p>(h) to exclude the public and press in accordance with the Access to Information Rules; and</p> <p>(i) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 21.4.</p>				

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		<p>15.11 Closure Motions</p> <p>A member may move, without comment, the following motions at the end of a speech of another member:</p> <p>(i) to proceed to the next business; (ii) that the question be now put; (iii) to adjourn a debate; or (iv) to adjourn a meeting.</p> <p>DUPLICATION HERE</p> <p>(a) If a motion to proceed to next business is seconded and the Chairman rules the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.</p> <p>(b) If a motion that the question be now put is seconded and the Chairman rules the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.</p> <p>(c) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.</p> <p>15.12 Point of Order</p> <p>A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been</p>				

No	Rule	Procedure	Application			
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		<p>broken. The ruling of the Chairman on the matter will be final.</p> <p>15.13 Personal Explanation</p> <p>A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.</p> <p>15.14 Motions referred to Overview and Scrutiny</p> <p>7. Any motion adopted by the Council following due notice from a Member of the Council and which relates to the responsibilities of Overview and Scrutiny shall, on adoption, stand referred to the Overview and Scrutiny Committee for consideration. In determining how to respond to the motion, the Overview and Scrutiny Committee shall consider whether the proposal should be incorporated in the work programme or held for future consideration in accordance with the procedures outlined in Paragraph 4 and 5 above. The Committee shall also advise the Council, via the Members' Information Bulletin, of the action taken on such motions.</p> <p>Mover of Motion may attend Committees</p> <p>When a motion has been referred to the Executive or any Committee from a meeting of the Council, the member of the Council who has moved or given notice of intention to move the motion and his seconder shall have notice of the meeting at which it is proposed to consider the motion. They shall have the right to attend the meeting and the opportunity of explaining the motion. The mover shall also have a right at the meeting to reply to the debate on that motion.</p>				
16.	RECISSION OR REJECTION OF PREVIOUS DECISIONS AND	<p>16.1 Motion to Rescind a Previous Decision</p> <p>A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 members.</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
	MOTIONS	<p>16.2 Motion Similar to One Previously Rejected</p> <p>A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.</p>				
17.	VOTING	<p>17.1 Majority</p> <p>Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.</p> <p>17.2 Chairman's Casting Vote</p> <p>If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. The exercise of this second or casting vote shall be in accordance with Article 5 (paragraph 5) of the Constitution.</p> <p>17.3 Show of Hands</p> <p>Unless a recorded vote is demanded under Rules 16.4 and 16.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.</p> <p>17.4 Recorded Vote</p> <p>If five members present at the meeting require it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.</p> <p>17.5 Right to Require Individual Vote to be Recorded</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.				
18.	VOTING ON APPOINTMENTS	If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.				
19	MINUTES	<p>19.1 Signing the Minutes</p> <p>The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.</p> <p>19.2 Extraordinary Meetings</p> <p>Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.</p> <p>19.3 Form of Minutes</p> <p>Minutes will contain all motions and amendments in the exact form and order in which the Chairman put them.</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
20.	RECORD OF ATTENDANCE	All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.				
21.	EXCLUSION OF PUBLIC	<p>Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).</p> <p>1.7 Public or Private Meetings of the Executive?</p> <p>All meetings of the Cabinet and Cabinet Committees shall be open to the public, press and all members of the Council, subject to the need to consider any exempt or confidential business in private session. Exempt or confidential business will be dealt with at the conclusion of the public session, subject to the requirements of 1.6 above.</p>				
22.	MEMBERS' CONDUCT	<p>22.1 Standing to Speak</p> <p>When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.</p> <p>22.2 Chairman Standing</p> <p>When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.</p> <p>22.3 Member not to be Heard Further</p> <p>If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>22.4 Member to Leave the Meeting</p> <p>If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.</p> <p>22.5 General Disturbance</p> <p>If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.</p>				
23.	DISTURBANCE BY PUBLIC	<p>23.1 Removal of Member of the Public</p> <p>If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.</p> <p>23.2 Clearance of Part of Meeting Room</p> <p>If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.</p>				
24.	SUSPENSION OF COUNCIL PROCEDURE RULES	All of these Council Rules of Procedure except Rule 14.5 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.				
	AMENDMENT OF COUNCIL PROCEDURE RULES	Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.				

No	Rule	Procedure	Application			
			C	E	O	NE
25.	PLANNING APPLICATIONS	Any planning application submitted directly to a Council meeting without prior consideration by the District Development Committee and/or an Area Sub-Committee shall be subject to the procedure for public participation by applicants, objectors and parish/town councils in the same way as those applied to Committees and Sub-Committees by Operational Standing Order 5.				
26.	APPLICATION TO THE EXECUTIVE, COMMITTEES AND SUB-COMMITTEES	<p>26.1 All of the Council Rules of Procedure apply to meetings of full Council. None of the rules (except Rule 8) apply to meetings of the Cabinet or other executive bodies. Only Rules 2(xi), 4-8, 11.10, 13 and 14, 16, (excluding 16.4), 18, 20-21 (excluding 21(1)) apply to meetings of Committees and Sub-Committees. Only rules 4-8 16.1-16.3 and 22.3-22.5 shall apply to working groups.</p> <p>26.2 The requirements of Procedure Rule 5 (Cancellation of Meetings) above shall apply to the Cabinet, Committees, Panels and Sub-Committees and any other meeting convened by the Authority.</p>				
	SUBSTITUTE MEMBERS - APPOINTMENT	<p>(1) A Leader, Deputy Leader or other appointed member of a political group shall be authorised to nominate to the Assistant to the Chief Executive substitute members from that group in respect of any committee, sub-committee, panel, board or working group of the Council, subject to the following conditions:</p> <p>(i) notice being given to the Assistant Director Democratic Services by not later than 60 minutes before the commencement of the meeting concerned;</p> <p>(ii) any political group member so appointed shall be notified to the Assistant Director Democratic Services at the beginning of each Council year;</p> <p>(iii) the substitution notification deadline shall be included on every agenda where substitution is permitted under the Council's Constitution.</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>(iv) substitutions on Cabinet Committees shall be restricted to other members of the Executive – NEW</p> <p>(v) substitutes on Area Planning Subcommittees are not permitted - NEW</p> <p>(2) It shall be competent for the Chief Executive, in circumstances where a political group notifies that a Councillor from that group will be temporarily unable to attend a Committee for a period of 8 weeks by reason of serious illness or other incapacity, to approve a substitute member and to report to the Council on action taken.</p>				
	POLITICAL GROUP REPRESENTATIVES	<p>(1) The political groups on the Council shall, prior to the commencement of each Council year, nominate one of their members serving on each of the Committees and Sub-Committees specified in (2) below as their representative on those Committees and Sub-Committees.</p> <p>(2) For the purpose of (1) above, the Committees specified shall be as follows: District Development Control Committee and Area Plans Sub-Committees.</p> <p>(3) The nominated representatives of each group shall be reported to the Council at its annual meeting.</p>				
	MINORITY REFERENCES	<p>(1) It shall be competent for at least one quarter (rounded up to the nearest whole number) of the number of Council members of a Committee present at a meeting of that Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the Council. In the case of Sub-Committees acting under delegated authority (except for Plans Sub-Committees) it shall be competent for one quarter (rounded up to the nearest whole number) of the members of that Sub-Committee present at a meeting of that Sub-Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the parent committee.</p> <p>(2) In relation to Area Plans Sub-Committees it shall be competent for at least four</p>				

No	Rule	Procedure	Application			
			C	E	O	NE
		<p>members of that Sub-Committee present at a meeting of that Sub-Committee to require that no action be taken on a particular matter until it has been considered by the District Development Control Committee.</p> <p>(3) This Standing Order shall apply only to items of business at a committee or sub-committee meeting and not to those submitted for information or report.</p>				
	MINORITY REPORTS	<p>If a minority consisting of not less than one quarter (rounded up to the nearest whole number) of the members present at any meeting proposing to report to its parent body and forwards it to the Chief Executive so that it is received by the tenth working day (or such other time as is agreed with the Chief Executive) following the date of the meeting, copies of such minority reports shall be circulated by the Chief Executive with the report of the body concerned.</p>				
	PETITIONS	<p>All petitions received by the Council shall be dealt with in accordance with the Authority's approved procedure shown at Appendix xx to these rules</p>				

EXEC WHATS LEFT?

EXECUTIVE PROCEDURE RULES

CONTENTS

Rule

1. How does the Executive Operate?
2. How are Executive Meetings Conducted?
3. Reports of Cabinet Members
4. Annual Reports and Work Programmes
5. Deputy Portfolio Holders
6. Requests by the Public/Outside Organisations to address the Cabinet
7. Action in Designated Emergencies

Appendices:

- 1 – Cabinet Quorum

2 – Action in Designated Emergencies

EXECUTIVE PROCEDURE RULES

1. How Does the Executive Operate?

1.1 Who may make Executive Decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

- (i) the executive as a whole;
- (ii) a committee of the executive;
- (iii) an individual member of the executive;
- (iv) an officer;
- (iv) an area committee;
- (vi) joint arrangements; or
- (vi) another local authority.

1.3 Sub-Delegation of Executive Functions

(a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.

- (b) Unless the Council directs otherwise, if the leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.
- (c) Unless the leader directs otherwise, a committee of the executive to whom functions have been delegated by the leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's Scheme of Delegation and Executive Functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) Delegation of executive functions is the responsibility of the Leader of the Council who shall report to the Annual Council meeting on delegation agreed. He/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The Leader of the Council will present a report to the next ordinary meeting of the Council setting out the changes made.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.9 How are Decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.
- (c) Where Executive decisions are delegated to individual members of the Executive, these decisions shall, in the unavoidable absence of that person, be exercised by the Executive itself.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.2 What Business?

At each meeting of the executive the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from overview and scrutiny committees;
- (vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution;
- (vii) budget reports; and
- (viii) reports from Executive Committees and individual members of the Executive.
- (ix) questions from members of the public in accordance with the Council's scheme provided that these are received at least 4 working days before the Cabinet meeting.

2.3 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.4 Who can put Items on the Executive Agenda?

- (a) The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.
- (b) Any member of the Executive may require the Proper Officer to place an item on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.
- (c) There will be a standing item on the agenda for each meeting of the Cabinet for matters referred by the Overview and Scrutiny Committee and at each ordinary meeting of the Cabinet for public questions.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual may be invited to attend the meeting, if, in the opinion of the Leader this would assist the Executive's consideration of that item. In the event that the Leader is unable to agree the request, the relevant member of the Council shall receive an explanation of that refusal.
- (e) The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

3. REPORTS OF CABINET MEMBERS

The following rules will apply to the reports submitted to any member of the Executive or the Cabinet, a Cabinet Committee or any other Executive body, namely:

- (a) all reports for Cabinet members will normally be drafted by officers but if drafted by a Cabinet member, they must be submitted at least 5 weeks in advance of the Cabinet meeting in order to allow the advice of officers to be included;

- (b) Cabinet members, once in possession of an officer's report, shall be able to amend reports in relation to minor wording changes or format provided that the factual, legal and financial basis is not compromised;
- (c) where Cabinet members wish to add or change recommendations or add options contained they must ensure that reasons are stated in the report;
- (d) at all times, reports requiring decisions in compliance with statute law or the Council's policy and budget framework, shall not be deferred by Portfolio Holders without the reason being recorded in writing;
- (e) it shall not be open to a Portfolio Holder to change a report submitted by a Chief Officer by omitting relevant facts or by altering the facts as expressed such that the report becomes unclear;
- (f) it shall be open to the Portfolio Holder and the Chief Officer to consult the Monitoring Officer and/or Chief Financial Officer under Article 12.03 or 12.04 of the Constitution on any points under (d) and (e) above on which there is no agreement; and
- (g) in the event that a Chief Officer and Cabinet member fail to agree on the submission of a report, it shall be referred to Monitoring Officer for a ruling on whether the report should proceed.

4. ANNUAL REPORTS AND WORK PROGRAMMES

5. PORTFOLIO HOLDER ASSISTANTS

5.1 The Leader of the Council may appoint up to 10 Portfolio Holder Assistants who shall –

- (a) assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
- (b) assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
- (c) where appropriate and where permissible under the Council's Constitution, represent the designated Cabinet Member at meetings or visits.

- 5.2 Such appointments shall be at the discretion of the Leader and shall be notified to Council at its Annual Meeting. The term of office of any Portfolio Holder Assistants shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.
- 5.3 Portfolio Holder Assistants shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers, which shall be reserved to Cabinet members either collectively or individually.
- 5.4 Portfolio Holder Assistants may, however, be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Cabinet members but may not vote.
- 7. ACTION IN DESIGNATED EMERGENCIES**
- 7.1 The procedure governing action required to be taken in emergency situations is set out in Appendix 2 to these rules.

EXECUTIVE PROCEDURE RULES – APPENDIX TO RULE 1.8 (QUORUM)

1. In the event that, for any reason, the Proper Officer perceives that there will not be quorum as a result of Cabinet membership being depleted for any of the reasons set out below:

(a) leave of absence approved by the Council under Section 85 of the Local Government Act 1972;

(b) suspension or partial suspension as a result of an adjudication by the Standards Board for England or the Epping Forest District Standards Committee;

(c) resignation as a Councillor or as a Cabinet member;

(d) ceasing to be a Councillor as a result of an election, by retiring from office or becoming otherwise disqualified; and

(e) by death in office

the Leader of the Council (or the Deputy Leader if absent) will be informed as soon as possible after this becomes apparent.

2. The Proper Officer shall also place an item on the agenda for the next available Cabinet meeting to:

(a) report on the vacancies which have occurred or are likely to occur;

(b) seek decisions from the Cabinet on arrangements for covering the vacant portfolios to be recommended to the Council on:

(i) any portfolios which will be covered by other Cabinet members either on a temporary basis or for the remainder of the Council year concerned; or

(ii) the need to appoint new portfolio holders to those vacancies, the actual appointment being reserved to the Council.

3. The Cabinet shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until such time that the Council can make formal appointments.
4. The Leader of the Council (or Deputy Leader if absent) shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until the next available Cabinet meeting considers the matter, if it is considered, after consulting the proper officer, that there is an urgent need to secure a quorum.
5. **Exercise of Delegation by the Cabinet or the Leader of the Council**
- 5.1 In the exercise of delegated authority under 3 and 4 above, the Cabinet or the Leader of the Council will:
 - (a) if Cabinet seats are held by a single political group, allocate portfolios only to councillors from that group;
 - (b) if Cabinet seats are allocated to an alliance of two or more parties forming a Council Administration, allocate vacant seats only to councillors from those groups and the Leader of the Council shall be required to consult the Leaders of those other groups in advance on the appointments being made;
 - (c) if Cabinet seats are allocated between all political groups entitled to places under pro rata rules, fill vacancies on the nomination of the political group which held the vacant seat(s), unless all political groups agree on an alternative arrangement which achieves pro rata requirements.

OSC Rules

OVERVIEW AND SCRUTINY PROCEDURE RULES

APPENDIX 2

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Rule

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2. Overview and Scrutiny Committee - Functions.
3. Overview and Scrutiny Committee - Terms of Reference.
4. Who may sit on the Overview and Scrutiny Committee?
5. Co-optees.
6. Meetings of the Overview and Scrutiny Committee.
7. Quorum.
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9. Work programme.
10. Agenda items.
11. Policy Review and Development.
12. Standing Scrutiny Panels - Procedural Requirements.
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14. Nominations to Standing Scrutiny and 'Task and Finish' Panels.
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21. Call-in and Urgency.
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24. Annual Report.
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Appendix 1 Protocol on Consideration and Reporting on Executive Decisions Called in by the Overview and Scrutiny Committee.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

(a) The Council will, at the Annual Council meeting, appoint an Overview and Scrutiny Committee as set out in Article 6.

(b) Each Overview and Co-ordinating Committee shall comprise 11 members, including a Chairman and Vice-Chairman appointed by the Council.

2. OVERVIEW AND SCRUTINY COMMITTEE - FUNCTIONS

1. The Overview and Scrutiny Committee will discharge the Overview and Scrutiny functions conferred by Section 20 of the Local Government Act 2000 plus those responsibilities allocated by the Council.

3. OVERVIEW AND SCRUTINY COMMITTEE - TERMS OF REFERENCE

1. The functions of the Overview and Scrutiny Committee shall be as follows:

- (a) review of corporate strategies;
- (b) ensuring that the decisions/actions of the Cabinet accord with the Council's policies and budget;
- (c) monitoring and scrutinising the financial performance of the Council and making recommendations to the Cabinet in relation to annual revenue and capital guidelines, bids and submissions;
- (d) when required, questioning members of the Cabinet or other Committees and officers about their decisions and performance whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (e) making recommendations to Cabinet and appropriate Committees and the Council arising from the outcome of the overview and scrutiny process;
- (f) review, scrutiny and monitoring of the performance of other public bodies including the National Health Service (with the agreement of Essex County Council) and of the community safety responsibilities of the Police and Crime Commissioner active in the District, inviting reports from them by requesting them to address the Committee and local people about their activities and performance;

- (g) questioning and gathering evidence from any person (including Councillors, members of Council staff and others) on issues falling within the functions of the Committee;
- (h) determining terms of reference, memberships (including the appointment of Chairman and Vice-Chairman) and reporting for all Standing and 'Task and Finish' Scrutiny Panels;
- (i) scrutinising executive decisions;
- (j) considering and making responses to executive decisions which are called in either as a Committee or through referral to a Standing or 'Task and Finish' Panel;
- (k) monitoring the effectiveness of the call-in procedure, reviewing the number and reasons for call-in and making recommendations to the Council on any changes required to improve operation of the process;
- (l) monitoring and scrutiny of the Forward Plan;
- (m) review of implications of Government Consultation documents where requested by members;
- (n) reports on key performance Indicators referred to the Committee;
- (o) reports on Service Business Plans as requested by members;
- (p) receiving presentations from the Leader of the Council and other Portfolio Holders early in the Council year outlining their plans for the year ahead and reporting performance in the previous Council year;
- (q) consideration of requests from Cabinet for scrutiny involvement in policy development and determining appropriate action;
- (r) to receive evidence from a senior officer relating to a petition where the number of signatures meets or exceeds the trigger level contained in the Council's Petitions Scheme and make recommendations as appropriate;

- (s) to review, when requested by the petition organiser, the Council's response to any petition which they consider has not been dealt with properly including, if appropriate, investigating, making recommendations to the Council or Executive or arranging for the matter to be considered at a meeting of the full Council;
- (t) determining work programmes in accordance with items falling within Committee's ambit in accordance with (a)-(s) above.

4. WHO MAY SIT ON THE OVERVIEW AND SCRUTINY COMMITTEE?

1. All councillors except members of the Executive may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

5. CO-OPTEEES

1. The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of appropriate persons as non-voting co-optees.

6. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE

1. Meetings of the Overview and Scrutiny Committee will be held in accordance with the Council's calendar of meetings in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman, or by the Proper Officer if he/she considers it necessary or appropriate.

7. QUORUM

1. The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

8. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

1. The Overview and Scrutiny Committee will be chaired by the Councillor appointed as Chairman of the Committee at the Annual Council meeting.

2. A Vice-Chairman will also be appointed by the Council at its Annual Meeting. The Chairman and Vice-Chairman of the Committee will be appointed from those Councillors serving on the Committee. The Chairman and Vice-Chairman will be appointed for a term of one year and will be eligible for re-appointment.

3. The Chairman of the Committee must have experience and understanding of the Overview and scrutiny system.

9. WORK PROGRAMME

Responsibilities

1. The Overview and Scrutiny Committee shall approve an Overview and Scrutiny Work Programme. This programme will be co-ordinated and prepared in draft by the Overview & Scrutiny Agenda Planning Group or equivalent body in consultation with the Chairman of the Committee.
2. The programme shall be compiled over the period February to May each year, with allowance made in the timetable for preparing the programme for the electoral period. A draft programme will be submitted to the first Overview and Scrutiny Committee meeting of each Council year for approval.

Compiling the Work Programme

2. In determining the contents of the work programme, the Committee will:
 - (a) seek proposals for inclusion from all Members of the Council through the Council Bulletin and from the public including via the Council's website;
 - (b) invite the Leader of the Council and other Portfolio Holders to attend the first meeting of each Council year to present the forward plan for the Cabinet for the following year in respect of the Council's executive functions, to answer questions on that plan and to indicate where appropriate work on the Cabinet's behalf which could be undertaken by Overview & Scrutiny;
 - (c) arrange for the Leader of the Council and other Portfolio Holders to attend a further meeting six months after the first meeting of the council year to provide a progress report on the forward plan for the year in question;
 - (d) agree with the Leader of the Council and Portfolio Holders on any items for inclusion in the work programme which may be undertaken by Overview and Scrutiny on the Cabinet's behalf;
 - (e) seek proposals from any partnership organisations on any projects which Overview and Scrutiny could undertake on behalf of those partnerships;
 - (f) review the work programme for Overview and Scrutiny in respect of the current year;
 - (g) consider external organisations to be scrutinised during the year in question.

Approving the Work Programme

3. The Overview and Scrutiny Work Programme shall be approved prior to the Annual Council meeting each year and shall be of twelve months' duration. The programme shall be reviewed after six months. **THIS IS AT ODDS WITH THE PRECEEDING RULES ABOUT THE DRAFT WORK PROGRAMME**

4. The Committee will, in determining the work programme for Overview and Scrutiny:
- (a) review all proposals submitted to ensure that they relate to the Council's Policy Framework including the Corporate Plan , the Forward Plan and other appropriate corporate information;
 - (b) ensure the agreed work programme has sufficient member and officer resources to support it;
 - (c) identify in advance any budgetary provision required for specific projects;
 - (d) ensure that the work programme is properly prioritised.
 - (e) allocate time limits for each project;
 - (f) ensure that any projects which do not find a place in the work programme are placed in a reserve programme for further review;
 - (g) ensure that all Members of the Council are informed about the work programme as part of the annual report to the Council in April each year;
 - (h) review the work programme on a regular basis during the year.

Urgent Items and New Proposals

5. Where new proposals or matters of urgency arise during the currency of an annual work programme, the Committee may:
- (a) determine that any new project should be added to the programme and adjust the remainder of the programme accordingly;
 - (b) determine that a new project should be deferred for review when the next work programme is considered;

(c) decline to accept an additional project and give grounds for so doing.

6. All proposals for additional or urgent projects shall be submitted in writing and presented at a convenient meeting of the Overview and Scrutiny Committee by the member or officer so proposing.

Motions at Council Meetings

10. AGENDA ITEMS

1. Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

2. Any members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration.

3. The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or the Council. The Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it and the Council within two months of receiving it, or, in either case, as soon as is reasonably possible.

11. POLICY REVIEW AND DEVELOPMENT

1. The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

2. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Executive in so far as they relate to matters within their terms of reference.

3. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

4. In carrying out any policy review or policy development work within their terms of reference, the Overview and Scrutiny Committee may refer all or part of such matters to a Standing Scrutiny Panel or a 'Task and Finish' Scrutiny Panel for consideration in accordance with the programme approved by the Overview and Scrutiny Committee.

5. The Overview and Scrutiny Committee or relevant Scrutiny Panel shall receive a verbal report from the relevant portfolio holder after three months from completion of any completed scrutiny study indicating whether recommendations from that study have been agreed or modified. After six months the Portfolio Holder will give a report to the Committee or Panel on Progress with implementation of those recommendations.

12. SCRUTINY PANELS - PROCEDURAL REQUIREMENTS

1. Scrutiny Panels may be established on an annual basis by the Overview and Scrutiny Committee.

2. Scrutiny Panel status will be restricted to those activities of a recurring or cyclical character which require a longer term involvement by members.

3. The Overview and Scrutiny Committee shall determine the number and terms of reference of Scrutiny Panels and shall review whether they should continue in being before the end of each Council year.

4. Scrutiny Panels will:

(a) adhere to a work programme agreed by the Overview and Scrutiny Committee;

- (b) have a chairman and vice-chairman appointed by the Overview and Scrutiny Committee;
- (c) have memberships which reflect pro rata requirements and the lowest number of members required to achieve cross-party representation whilst allowing the inclusion of members who are not members of a political group or are not members of the Overview and Scrutiny Committee;
- (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
- (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
- (f) be able to seek delegated authority from the Overview and Scrutiny Committee, to vary their terms of reference and work programme according to circumstances;
- (g) report through the Panel Chairman to meetings of the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
- (h) be able, after consideration by the Overview and Scrutiny Committee, to report direct to the Council, the Cabinet Committee a Portfolio Holder, or any other Council body'
- (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
- (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;
- (k) extend a standing invitation to relevant portfolio holder(s) to attend panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and
- (l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.

5. Any member of the Council may be a member of a Scrutiny Panel, provided that any Cabinet member may not be a member of a Panel which directly deals with matters within his or her portfolio.
6. Any member of the Council shall be able to attend any meeting of a Scrutiny Panel and be notified of the publication of the agenda.
7. The provisions of Operational Standing Order 14 shall apply to these Scrutiny Panels.

13. 'TASK AND FINISH' SCRUTINY PANELS

1. 'Task and Finish' Scrutiny Panels may be established by the Overview and Scrutiny Committee in order to deal with ad hoc projects or reviews included in the annual work programme for Overview and Scrutiny.
2. 'Task and Finish' Scrutiny Panel status will be restricted to those activities which are issue-based, time limited and non-cyclical in character and have clearly defined objectives.
3. 'Task and Finish' Scrutiny Panels will:
 - (a) have terms of reference, membership and a work programme approved by the Overview and Scrutiny Committee;
 - (b) have a Chairman and Vice-Chairman appointed by the Overview and Scrutiny Committee;
 - (c) have memberships which need not be based on pro rata rules;
 - (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
 - (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
 - (f) be able to seek delegated authority from the Overview and Scrutiny Committee for the variation of their terms of reference and work programmes according to circumstances;

- (g) report through the Panel Chairman at each meeting of the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
 - (h) be able, after consideration by the Overview and Scrutiny Committee, to report to the Council, the Cabinet, a Cabinet Committee, a Portfolio Holder or any other Council body;
 - (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
 - (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;
 - (k) extend a standing invitation to relevant portfolio holder(s) to attend Panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and
 - (l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.
4. 'Task and Finish' Scrutiny Panels shall be flexible as to the number of Councillors appointed to membership. There will be no restriction on the numbers appointed.
5. Any Councillor may be a member of a 'Task and Finish' Scrutiny Panel, save that a member of the Cabinet may not be a member of any Panel which bears directly on his or her portfolio.
6. No 'Task and Finish' Scrutiny Panel shall be comprised of members of a single group only.
7. Any member of the Council shall be able to attend any meeting of a 'Task and Finish' Scrutiny Panel and to receive copies of agenda.

8. The normal arrangements for substitute members as set out in Operational Standing Order 14 shall not apply to Task and Finish Panels but the Chairman of any such Panel shall have discretion to accept alternate members to cover for existing members for any meeting.

14. NOMINATIONS TO STANDING SCRUTINY AND 'TASK AND FINISH' PANELS

1. The Leader of each political group (and any Councillor who is not a member of a political group) shall be notified before the commencement of each Council year of the number of Standing Scrutiny and 'Task and Finish' Panels to be appointed and the number of members to serve on each Panel, indicating pro rata requirements where applicable. Similar notice will be given through the Members' Bulletin to other members of the Council.

2. The Leader of each political group will also be notified of the number of Chairmen and Vice-Chairmen positions to be filled before the commencement of each Council year.

3. Group Leaders shall ensure that members of all political groups have an opportunity to nominate to any positions referred to under 1 and 2 above. Any nominations may be made up to the day before the meeting in question. Such nominations shall include a case for the position sought.

4. Nominations to these Panels shall be excluded from the calculation required under the Council's protocol regarding allocation of Chairman and Vice-Chairman positions between the political groups.

15. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEE

1. Once recommendations on proposals for policy review or development, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council if the recommendation would require a departure from, or a change to, the agreed budget and policy framework.

2. If the Overview and Scrutiny Committee cannot agree on a single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

3. Reports by the Overview and Scrutiny Committee shall normally be presented by the Chairman of that Committee, unless he or she determines that it would be beneficial for a Panel Chairman to undertake this role instead or that a joint presentation is appropriate.

16. ENSURING THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY EXECUTIVE

(a) Executive matters not delegated to the Cabinet, a Cabinet Committee or a Portfolio Holder

1. Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks or as soon as reasonably practical thereafter in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview and scrutiny proposals.

(b) Executive Matters Delegated to an Executive Committee or Executive Member

2. Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where the Executive has delegated decision making powers to another individual member of the executive or to an Executive Committee, then the Overview and Scrutiny Committee will submit a copy of their report to that individual or committee for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Proper Officer and the Leader. If the member or Executive Committee with delegated decision making powers does not accept the recommendations of the Overview and Scrutiny Committee then the matter will then be referred to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive member or Committee to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and the Executive Member or Committee Chairmen will attend a future meeting to respond.

(c) Cabinet Business - Work Plan

3. The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee

following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

17. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

1. In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

2. Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee (or any Scrutiny Panel) as appropriate depending on the particular matter under consideration. **ADD THIS TO MAIN RULES SET?**

18. MEMBERS AND OFFICERS GIVING ACCOUNT

1. The Overview and Scrutiny Committee or a Standing Scrutiny Panel or 'Task and Finish' Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, a Director or Assistant Director to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

and it is the duty of those persons to attend if so required.

2. Where any member or officer is required to attend the Overview and Scrutiny Committee or Panel under this provision, the Chairman will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 14 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

3. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Panel concerned shall in consultation with the member or officer arrange an alternative date for attendance not less than 14 days from the date of the original attendance.

19. ATTENDANCE BY OTHERS

1. The Overview and Scrutiny Committee or Panel may invite people other than those referred to in paragraph 18 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Such attendance is optional for those invited.

2. Any member of the public or a representative of an outside organisation may ask a question or address the Overview and Scrutiny Committee, or any Scrutiny Panel on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting. The following rules shall apply to such requests:

- (i) requests must relate to an existing agenda item;
- (ii) requests must not raise new business for the meeting concerned;
- (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
- (iv) the request to ask a relevant question or address the Committee or a Panel shall only be allowed once and the same question or address may not be repeated subsequently at another scrutiny body in that Council year;
- (iv) requests accompanied by proposals to circulate written material must be received five clear days before the meeting in time to be sent to Overview and Scrutiny Committee members in advance of the meeting;
- (v) requests need not be in writing;
- (vi) a maximum of two persons shall be permitted to address the Committee on any one agenda item;
- (vii) a time limit of 3 minutes per speaker shall apply;
- (viii) the Overview and Scrutiny Committee shall be able to ask questions on any comments made;

(ix) the Chairman of the Overview and Scrutiny Committee shall have discretion as to whether to limit the number of persons wishing to address the Committee if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.

20. CALL-IN

1. When a decision is made by the Executive, an individual member of the executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 5 working days of being made. All members of the Council will be sent copies of the written records of all such decisions within the same timescale, by the person responsible for publishing the decision.

2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the required number of members objects to it and calls it in.

3. During that period, the Proper Officer shall call in a decision for scrutiny if so requested in accordance with paragraph (h) below and shall then notify the decision-taker of the call-in. He/she shall consult with the Chairman of the Overview and Scrutiny Committee who will determine that consideration of the call in will be referred to:

- (i) the next Overview and Scrutiny Committee; or
- (ii) an appropriate Panel; or
- (iii) a Task and Finish Panel.

If consideration of any executive decision is likely, under these rules, to be delayed for more than two weeks the Chairman of the Overview and Scrutiny Committee may require an extraordinary meeting to be convened at an earlier date if the circumstances appear to warrant this.

4. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) above, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.
5. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.
6. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
7. Where an Executive decision has been taken by an area committee, then the right of call-in shall extend to any 3 members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those 3 members may request the Proper Officer to call-in the decision. He/she shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within five days of the decision to call-in. All other provisions relating to call in shall apply as if the call in had been exercised by members of the Overview and Scrutiny Committee.
8. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call in an Executive decision. Such a request shall be in writing in the prescribed format and referred in Person to the Proper Officer.
9. Call in arrangements shall not apply to decisions on non-executive functions by Committees, Sub-Committees, Panels or Boards of the Council.

10. In the operation of "call in" arrangements, members of the Council shall also adhere to the terms of the Protocol approved by the Council and set out in Appendix 1 to these rules.

21. CALL-IN AND URGENCY

1. The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay is likely to be caused by the call in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, a Joint Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

2. The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

22. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

1. The Overview and Scrutiny Committee shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of any matter referred to the committee for a decision in relation to a call in;
- (d) responses of the executive to reports of the Overview and Scrutiny Committee;
- (e) questions or requests by members of the public to address the Committee on any agenda item provided that these are relevant to the Council or the District and have not been dealt with at a previous meeting of the Committee or of any Scrutiny Panel
- (f) the business otherwise set out on the agenda for the meeting.

23. CONDUCT OF OVERVIEW AND SCRUTINY FUNCTIONS

1. Where the Overview and Scrutiny Committee or a Panel conducts investigations (e.g. with a view to policy development), they may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

2. Following any investigation or review, the Committee/or Panel concerned shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

24. ANNUAL REPORT

1.

25. PARTY WHIPS

1. To facilitate cross party working, party whips will not be applied to the overview and scrutiny process.

PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS CALLED IN BY OVERVIEW AND SCRUTINY

1. Purpose of Protocol

- (a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.
- (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

2. Validation of "Call In"

- 2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

3. Consideration of "Call In" Items by Overview and Scrutiny Committee

- 3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.
- 3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:
 - (a) copies of all documentation submitted to the Executive on which the decision was based;
 - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
 - (c) any other relevant documentation.

3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "Call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.

3.4 The "Call in" decision shall be considered in the following manner:

(a) the Lead Signatory to the calling in of the decision shall describe their concerns;

(b) the Portfolio holder responds;

(c) the four remaining signatories shall then speak in support of the "Call in";

(NB if there are more than 5 signatories, the only the lead member and the following 4 Councillors on the call in notification shall be called to speak. Any other Councillor whose name appears on the call in notification shall be able to speak during the general debate on the item – see (d) below.)

(d) the Portfolio holder responds;

(e) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved;

(f) the Lead signatory will then have an opportunity to respond to the debate;

(g) the portfolio holder shall then have an opportunity to respond to the debate

(NB. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate.)

(h) following the debate, the Overview and Scrutiny Committee or Panel has the following options:

(i) confirm the decision, which may then be implemented immediately, or

- (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
 - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (i) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (j) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (k) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (l) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (m) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (n) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (o) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (p) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

4. Consideration of Reports on "Call In" Items by the Executive

- 4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
- 4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
- 4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.
- 4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
- (a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;
 - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
 - (c) any other information.
- 4.5 The Executive or Committee of the Executive shall consider the matter as follows:
- (a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;
 - (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;

(c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and

(d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.

4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

5. Implementation of Decisions When Cabinet Control or Membership Changes

5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council

6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.

6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:

(a) whether the Council may properly determine the matter if the function is delegated to the Executive;

(b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;

(c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and

(d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

7. Restriction on "Call In"

7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".

7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

8. Withdrawal or Modification of a "Call In"

8.1 A valid "Call in" may be withdrawn at any time by the Lead signatory.

8.2 The lead signatory to a validated "Call In" or the relevant Portfolio Holder may request a meeting with the Chairman of the Committee prior to the "Call in" being considered by the Committee in order to discuss the following:

(a) the management of the "Call in" debate at the Committee meeting concerned;

(b) the possibility of reaching agreement on removing any objections to the decision in question which are raised in the call in request; and

(c) the withdrawal of a "Call in".

8.3 Where the lead signatory agrees to withdraw or modify a "Call in", the Councillor concerned shall notify his fellow signatories as soon as practicable and the circumstances shall be reported to the Overview & Scrutiny Committee.

8.4 If a "Call in" is withdrawn, the circumstances will be notified to all members of the Council via the Council Bulletin.

8.5 In cases where a Portfolio Holder has agreed to modify a decision, he or she shall issue a revised decision notice or refer the proposal back to the Cabinet, if the latter made the original decision.

8. Definitions

8.1 For the purpose of this Protocol, the following definitions shall apply:

(a) "Executive"

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

(b) "Decision"

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

(c) "Decision Taker"

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

9. Review of Protocol

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

OPERATIONAL STANDING ORDERS – NON-EXECUTIVE BODIES

1. Membership of Non Executive Committees, Sub Committees, Panels, Boards and Working Groups

(1) The following shall be the non-executive committees of the Council, consisting of the number of members set out below:

Committee or Sub-Committee	Number of Councillors
District Development Control Sub-Committees:	15
Area Plans (South)	25 (Max)
Area Plans (East)	19
Area Plans (West)	14
Overview and Scrutiny Committee	11

(2) The following shall be special committees of the Council, consisting of the number of members set out below:

Audit and Governance Committee	3 Councillors (+ 2 Co-opted Members)
Joint Consultative Committee	9 Councillors 9 Employee members
Staff Appeals Panel	5 Councillors
Complaints Panel	11 Councillors
Member Remuneration Panel	3 Independent Persons
Housing Appeals and Review Panel	5 Councillors

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REV: 2014 Rewrite

Standards Committee

2 Councillors
3 Independent Persons
1 Parish Representative
(and deputy)

Licensing Committee

15 Councillors

(3) The appointments to the bodies set out in (1) and (2) above together with the Cabinet and any Cabinet Committees and representatives on outside organisations shall be appointed by the Council at the Annual Meeting. Casual vacancies may be filled at ordinary Council meetings.

(4) Appointment of Councillors to all Committees, Sub-Committees, Special Committees, Joint Committees, Working Groups and Standing Scrutiny Panels shall be made in accordance with the provision of the Local Government and Housing Act 1989 and the Local Government Act 2000 and such other regulations or advice as are issued from time to time by the Secretary of State.

(5) Members of the Council appointed to each Area Plans Sub-Committee shall be drawn solely from those representing wards within the area for which the Sub-Committee is responsible. Seats on each Sub-Committee shall be allocated to all Councillors representing electoral wards in the areas concerned. The requirement for the appointment of Sub-Committees from all members of the Council shall not apply to the four Area Plans Sub-Committees.

(6) The Area Plans Sub Committee (South) shall comprise a maximum of 25 Councillors, being the total number representing wards in the area for which the Sub Committee is responsible. At the Annual Council meeting, the Council shall determine the membership of that Sub Committee on the basis of the number of Councillors who sign a written notice stating that they wish to serve on the Area Sub Committee for the ensuing year. Any Councillor who does not sign a notice shall be deemed not to be a member of the Sub Committee for the year in question. Councillors may not retract a signed notice or seek to join the Sub Committee by signing a notice until the next Annual Council meeting.

(7) The quorum for Area Plans Sub Committee (South) shall be determined by applying Council Procedure Rules 7 and 24 to the total number of Councillors who have signed a notice under paragraph 6 above.

2. Election of Leader and Deputy Leader and Chairmen and Vice-Chairmen of the Council Committees, Sub-Committees, Panels and Boards

(1) The Leader of the Council, the Deputy Leader of the Council, Chairman and Vice-Chairman of each of these bodies shall be elected by the Council.

(2) The Chairman of each Sub-Committee shall be elected from those councillors who are also members of the parent committee.

(3) The Vice-Chairman or Deputy Leader of any of these bodies shall, in the absence of the Chairman, have the same power and authority as the Leader or Chairman respectively granted by resolution of the Council or by the Committee or Sub-Committee.

(4) The Chairman of the District Development Control Committee shall be elected from among Councillors who are not Chairmen of Area Plans Sub-Committees.

3. Discharge of Committee Business after Election

In order to ensure the continuous discharge of the ordinary current business of the Council pending the reconstitution of the committees after the retirement of councillors on the fourth day following an election, each committee shall after the retirement of councillors and until reconstituted by the Council, consist of such members of the committee who remain or who have been re-elected members of the Council. Provided that if the committee as thus temporarily constituted shall consist of fewer than one half of the whole number of members thereof the Chairman of the Council shall appoint additional Council members, sufficient in number to make up the deficiency, such additional members to hold office until the reconstitution of the committee.

4. Public Participation at District Development Control Committee and Area Sub-Committees on Planning Matters

(1) There shall be afforded to any applicant, objector and Parish or Town Council representative an opportunity, on request, to make written or oral representations to any Area Plans Sub-Committee (or in appropriate circumstances, the District Development Control Committee) meeting concerning any planning application or related matter before that Sub-Committee for determination.

(2) The procedure for dealing with requests to address an Area Plans Sub-Committee or the District Development Control Committee shall be as prescribed from time to time by the Council and as set out in Appendix 1.

5.

6. Attendance of Non-Members at Meetings

(1) Any member of the Council may attend a meeting of the Cabinet, a Cabinet Committee any other Committee, Sub-Committee, Panel, Board or Working Group of the Council, except a meeting of a special committee. With the permission of the Chairman, a member may take part in discussion but may not vote and may not introduce any new business. Any matter on which consideration is sought by a non-member is admissible only if the support of a member of the body concerned is obtained and raised at the meeting in that Councillor's name with the Chairman's permission and, unless the Chairman determines that it is of an urgent nature, if it is submitted at the latest two weeks before the meeting concerned.

(2) Business raised in respect of the Executive shall be dealt with in accordance with the Executive Procedure Rules.

7. Overview and Scrutiny Panels

(1) The provisions of the Council's Overview and Scrutiny Procedure Rules will apply to the terms of reference, membership and appointment of Scrutiny Panels.

8. Other Working Groups

(1) The Council, any Committee or Sub-Committee may appoint a working group to advise them on any matter within their terms of reference.

(2) The appointing body will determine the terms of reference, Chairman and membership of the Working Group and shall be responsible for making appointments of Councillors in accordance with pro rata rules.

9. Overview and Scrutiny Panels and Other Working Groups – Additional Requirement

(1) Working Groups and Overview and Scrutiny Panels shall act only in an advisory capacity and shall not have executive powers. They shall report as soon as convenient to the body, which established them.

(2) Non members may attend any meeting of a Panel or Working Group.

(3) Notices of all Working Group and Panel meetings shall be forwarded by the Chief Executive to those members appointed by the Council and to all Group Leaders. The Chief Executive shall, however, forward a copy of such notice of the meeting to any other Members of the Council who wish to receive a copy.

(4) One copy of each Working Group agenda shall be deposited in the Members' Room for the information of non-members.

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**RULES FOR PARTICIPATION ON PLANNING MATTERS AT COUNCIL,
AREA PLANS SUB AND DISTRICT DEVELOPMENT CONTROL COMMITTEE MEETINGS**

1. The following persons shall be able, on request, to address the appropriate Area Plans Sub-Committee and District Development Control Committee on any planning application or related matter within its terms of reference and included on any agenda:
 - (a) an applicant (or one nominated agent or representative);
 - (b) one objector (except where, in the light of exceptional circumstances approved by the Chairman of the Sub-Committee, additional speakers are allowed);
 - (c) one representative of the relevant Parish or Town Council (except where in the light of exceptional circumstances approved by the Chairman of the Sub-Committee representations from other Parish or Town Councils are given in person) for the purpose of explaining the views of that Council on the matter in question;
 - (d) in the case of planning applications which the Head of Planning and Economic Development deems to have a District wide significance, it shall be permissible for the Chairman of an Area Plans Sub-Committee or the Development Committee, on the recommendation of the Head of Planning and Economic Development, to allow any Parish or Town Council to comment on such an application.
2. For the purposes of this Standing Order the definition of "planning application or any related matter" shall not include any existing or proposed enforcement act under the Planning Acts.
3. Subject to the proviso under 1(b) above, the number of speakers shall be limited to the three.
4. Notice of at least one working day is required from any person wishing to address an Area Plans Sub-Committee.

5. Persons addressing an Area Plans Sub-Committee shall be allowed no more than three minutes to present their case. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.
6. Written submissions and photographic or similar material will not be considered by an Area Plans Sub-Committee unless they have been received by the Chairman of the Sub-Committee, Ward Councillors and Head of Planning and Economic Development before the meeting. Such submissions or other material may, at the discretion of the Chairman be admitted to the meeting if he or she that it is significant.
7. The right to address an Area Plans Sub-Committee shall be extended to the District Development Control Committee (but not to the Council) in the event of any planning matter being referred by an Area Plans Sub-Committee or in respect of any planning matter submitted direct to that Committee.
8. Any matter deferred by an Area Plans Sub-Committee or the District Development Control Committee shall entitle any applicant, objector or parish/town council representative a further right to address the Sub-Committee when the matter is reconsidered.

Petition Scheme – Epping Forest District Council

Proposed new Standing Order

1. Definition

1.1 For the purpose of this procedure a petition is a request to the Council made either (i) in writing; or (ii) through the Council's e-petitions system on its website.

2. Scope of Scheme

2.1 The Council will accept paper based petitions, e-petitions (but only those submitted on through its own petitions system) or a mix of paper and e-petitions. The proper officer for petitions is the Assistant Director of Governance and Performance Management.

3. Acknowledgement

3.1 All petitions sent or presented to the council shall receive an acknowledgement from the council within seven days of receipt. This acknowledgement will set out what the Council plan to do with the petition. The Council shall treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.

4. Exceptions to Petitions

4.1 The following petitions do not fall within the scope of this petitions scheme:

(a) Emailed petitions, as email systems are not secure. Petitioners must use either paper or the Council's EPetitions system. The Council will not monitor third party petitions systems.

- (b) Petitions which are considered to be vexatious, abusive, anonymous or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum the Council may need to deal with a petition differently – if this is the case the Council will explain the reasons with the petitioner and discuss the revised timescale which will apply.
- (c) Petitions relating to a planning decision; (as the Planning application process deals with objections to applications), including those about a development plan document or the community infrastructure levy.
- (d) Petitions relating to a licensing decision; (as the Licensing scheme deals with objections to applications)
- (e) Petitions relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal.
- (f) Any matter for which the Standards Committee has powers for determining complaints received under the Local Assessment process.
- (g) Any complaint made against an employee of the District Council.
- (h) Any matter which is substantially the same as a petition submitted in the previous 12 months.
- (i) Where the subject matter is subject to ongoing legal proceedings.
- (j) Petitions made during formal Council consultations related to the subject matter of the consultations (these will be formally referred to that process as appropriate)

4.2 Where a petition submitted relates to one of the categories set out above the Council will write to the lead petitioner and explain why the matter is not covered by the authority's Petitions Scheme. In appropriate circumstances, the Council may advise how the public views can be considered via alternative means.

5. Submission guidelines/Signatory Requirements

5.1 Petitions submitted to the council must include:

- (a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.

(b) The name and address and signature of any person supporting the petition.

(c) Contact details, including an address (and a valid email address if submitted electronically), for the petition organiser

5.2 If the petitioner contacts the Council to start an e-Petition, then the Council and the Lead Petitioner will agree the period over which signatures will be collected and to agree the final wording of the petition. The petition will then be available to sign 'electronically' for the agreed period on the Council's website. On the expiration of that time, the Council will respond in accordance with Section 7 below.

5.3 Anyone who lives, works or studies in Epping Forest District is entitled to sign to support a petition. The supporters Name, Address, a valid email address and/or postcode are required to sign an e-Petition on the Council's website. For paper petitions signatories must provide their, name, address and signature

5.4 E-petitions will run on the Council website for a maximum of 3 months, but the Council and the lead petitioner can choose a shorter timeframe up to the maximum.

6. The procedure when the Council receives a petition

6.1 The Council will send the lead petitioner an acknowledgement of the petition within 7 working days. Local ward councillors will be informed of the receipt of a petition.

6.2 If the Council is able to do what the petition asks for, the acknowledgement may confirm that the Council have taken the action requested and the petition will be closed.

6.3 If the petition needs more investigation, the Council will tell the lead petitioner the steps the Council plan to take.

6.4 If the lead petitioner has created an e-petition, the Council will check that the content of the e-petition is suitable before it is made available for signature. This will take a maximum of ten working days.

6.5 If the Council cannot publish an e-petition for some reason, the Council will contact the lead petitioner within ten working days to explain the reason for not publishing a petition based upon the exceptions in section 4 above.

6.6 A lead petitioner is able to change and resubmit their e-petition within 10 working days, if they fail to do so within that time, a summary of the e-petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

7. How the Council considers petitions

Petition type	Response
Correspondence with fewer than 20 signatures	This will normally be dealt with by the appropriate Directorate as ordinary correspondence, unless the Service Director concerned is of the opinion that the subject matter is sufficiently important or contentious to warrant referring the matter to the appropriate Portfolio Holder.
Petitions with more than 20 but fewer than 1200 signatures	These will be considered and dealt with by the relevant portfolio holder who may: <ul style="list-style-type: none"> (a) take action if he or she has delegated powers to act alone; (b) prepare a report to the Cabinet or a Sub-Committee of the Cabinet for decision if appropriate.
Petition containing at least 1200 signatures.	The relevant Portfolio Holder will prepare a report to the Cabinet for decision on the matter.
2400 signatures or more	These large petitions will be scheduled for a council debate and if this is the case we will let you know whether this will happen

Petition type	Response
e-petitions	When an e-petition has closed for signature, it will automatically be submitted to the relevant officer, portfolio holder or Council In the same way as a paper petition.

8. Decisions on petitions

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:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Cabinet or a Cabinet Committee
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If a petition is about something over which the council has no direct control (for example healthcare or transport) the responsible body (under section 7 above) will consider making representations on behalf of the community to the relevant body.

If the Council are not able to meet the petitioners requests for any reason (for example if what the petition calls for conflicts with council policy), then the Council will set out the reasons for not taking the action requested in writing to the Lead Petitioner.

Decisions made by the Portfolio Holder will be recorded in writing and notified to the public, the lead petitioner and all members of the Council.

All received petitions will be reported to Council via regular Portfolio Holder reports.

9. Petitions received after a decision is made

In cases where a petition is received after a decision has been made by the Council on any matter, the following steps will be taken by the Director unless the petition meets the threshold for a Council debate:

- (a) a letter of acknowledgement shall be sent to the lead petitioner, including a statement of the action already taken by the Council;
- (b) in consultation with the appropriate Portfolio Holder, Committee or Sub-Committee Chairman a decision will be taken as to whether the petition raises new evidence requiring further consideration by the Portfolio Holder or Committee concerned;
- (c) if it is decided that no new matters are raised by the petition, the lead petitioner shall be advised accordingly;
- (d) if new matters are raised then the petition will be treated as 'new' under this scheme.

10. Full Council and Cabinet debates

If a petition contains more than 2400 signatures it will be debated by the full council at its next ordinary meeting.

If a petition contains more than 1200 signatures it will be subject to report and debate by the cabinet at its next available meeting.

The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors.

The Council or Cabinet will decide how to respond to the petition at this meeting.

The Council or Cabinet may:

- (a) decide to take the action the petition requests, and in the case of a Cabinet debate, report to Council if appropriate (see paragraph 11 below)
- (b) not to take the action requested for reasons put forward in the debate, or

- (c) commission further investigation into the matter, for example by the Cabinet (if the matter was debated at Council) or a relevant Cabinet committee.

11. Council Referrals

Where the issue is one on which the council executive are required to make the final decision (i.e. within the financial and policy framework), the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

EPPING FOREST DISTRICT COUNCIL

PETITION SCHEME GUIDANCE

Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

You have a choice in the way you submit petitions. It can be done in the traditional paper way or using our electronic petitions (e-petitions) system.

How to submit a Petition

Paper petitions can be sent to:

Assistant Director of Governance and Performance Management
Epping Forest District Council
Civic Offices
High Street
Epping
Essex CM16 4BZ

e-petitions can be submitted at:

www.eppingforestdc.gov.uk/petitions

Who can submit or sign a petition?

A petition can be submitted or signed by a person who lives, works or studies in Epping Forest District.

What does a Petition need to be valid?

Petitions must relate to matters that directly affect the Council or Epping Forest, and about which the Council has powers to act or lobby. National and foreign issues are not valid subjects for petitions.

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition and on each page of the petition
- It should state what action the petitioners would like the Council to take
- The full name and contact details and the signature of the person leading the petition, and if submitted online via our e-petition system, a valid email address.

Petition types we don't accept under this scheme

- (a) Emailed petitions or petitions started on third party websites;
- (b) Petitions that are vexatious, abusive, anonymous or otherwise inappropriate or subject to legal proceedings;
- (c) Petitions about a planning application (these will be referred to the planning process)
- (d) Petitions about a proposed licensing decision (these will be referred to the licensing section)
- (e) Petitions made about a decision made about a person or entity where they have a separate right of review or appeal or where another formal consultation is being undertaken at the time (we will refer your petition to that process)
- (f) Petitions that relate to a matter over which the Council's Standards Committee have jurisdiction (for example a complaint about a Councillor).
- (g) Petitions that are a complaint about an employee. (these would be referred to the Council's complaints process)

What happens when I submit a petition?

All petitions sent or presented to the Council will receive an acknowledgement from the Council within 7 working days of receipt. This acknowledgement will set out how the Council will respond to petitions. Details of your petition will also be sent to your local ward councillors.

If you create an e-petition, we will check that the content is suitable and then make it available for electronic signature for a maximum period of three months.

Depending on how many signatures there are to support a petition it will be considered in different ways:

Petition type	Response
Correspondence with fewer than 20 signatures	This will normally be dealt with by the appropriate Directorate as ordinary correspondence, unless the Service Director concerned is of the opinion that the subject matter is sufficiently important or contentious to warrant referring the matter to the appropriate Portfolio Holder.
Petitions with more than 20 but fewer than 1200 signatures	These will be considered and dealt with by the relevant portfolio holder who may: <ul style="list-style-type: none"> (a) take action if he or she has delegated powers to act alone; (b) prepare a report to the Cabinet or a Sub-Committee of the Cabinet for decision if appropriate.
Petition containing at least 1200 signatures.	The relevant Portfolio Holder will prepare a report to the Cabinet for decision on the matter.

Petition type	Response
2400 signatures or more	These large petitions will be scheduled for a council debate and if this is the case we will let you know whether this will happen
e-petitions	When an e-petition has closed for signature, it will automatically be submitted to the relevant officer, portfolio holder or Council In the same way as a paper petition.

How Will the Council Respond to Petitions?

Our 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:

- Taking the action requested in the petition.
- Not taking the action requested and responding with the reasons why.
- Considering the petition at a council meeting.
- Making enquiries to find out more about the matter.
- Referring the matter for review by a committee of the Council
- Holding a meeting with petitioners.
- Writing to the petition organiser setting out the Council's views about the request in the petition.

If you submit a petition after a decision has been made about the issue we will look to see if you are raising new matters before we decide how to respond to you. The petition organiser will always receive a written decision on their petition request.

What happens if the matter is referred to the Council or Cabinet for debate?

If a petition contains the required number of signatures the issue raised in the petition will be discussed by councillors at the next available ordinary meeting of the Council (if your petition has over 2400 signatures) or Cabinet (if you petition has at least 1200 signatures),

At the meeting the petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors.

The councillors will decide how to respond to the petition at this meeting.

The Council/Cabinet may decide to:

- take the action the petition requests,
- not to take the action requested for reasons put forward in the debate, or
- to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the Council's cabinet is required to make the final decision, the councillors will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision.

Report to Constitution and Members Services Scrutiny Panel

Date of meeting: 16 February 2015

Subject: Chairman's Casting Vote



Officer contact for further information: Simon Hill, Governance (Ext 4249)

Committee Secretary: Mark Jenkins (Ext 4243)

Recommendations/Decisions Required:

- (1) To consider whether changes are required to the provisions of the Constitution relating to the Chairman's casting vote;**
- (2) That, should the proposed changes be agreed, other references, outside of the new Council Rules be removed from or aligned in the new draft constitution.**

Report:

1. (Assistant Director Governance and Performance Management) Members briefly discussed the current provisions for the application of the Chairman's casting vote at the last meeting. The current wording contained within the constitution is attached as Appendix 1 to this report. These provisions are part of the Councils Procedure Rules (rule 17.2 refers), Article 5 (Chairing the Council) and are referenced in the Planning and Members/Officers protocols.

2. At the last meeting members asked that officers review the wording and look at examples from other authorities. The provisions that we have at Epping Forest are unusual. I have not found another example of these provisions in a Council Constitution. The rule did not exist prior to 2000 when changes were made to the constitution as a result of the Local Government Act of that year. Prior to 2000 Council procedures allowed casting votes in the cases of equality of voting but placed no restriction upon it. The right of the Chairman to place a second or casting vote doesn't exist in common law and must be applied by the rules of the authority. Current rules seem to be based upon what's known as 'Speaker Denisions rule'¹ where there are seen to be neutral Chairmen.

3. The Article relating to the Chairman of Council (Article 5) does enshrine the need for the Chairman of the Council to be neutral. However, the act of casting a second or casting vote is rarely a strictly neutral act. The requirement for the Chairman of Council to vote for the 'status quo' only applies where the Council does not have to make a decision at that time; can defer the matter to a later time or unless there is a legal requirement to vote otherwise². In terms of planning matters, guidance is that the Chairman should 'only be based on an honest appraisal of the planning matter concerned.'³ In another reference⁴

¹ http://en.wikipedia.org/wiki/Speaker_Denison%27s_rule

² Paragraph 5.05 (b) – EFDC Article 5 – Chairing the Council

³ Paragraph 19.1 EFDC Planning Protocol

⁴ Paragraph 5.2 EFDC Convention on the relationships between political groups and Councillors with officers

advice is that where the status quo doesn't exist the chairman 'shall vote in accordance with their judgement of the public interest'. The only committee the rule is dis-applied to is the Joint Consultative Committee.

4. All other authorities that have been checked allow second or casting votes but place no restriction on the vote. Officers have gone back and checked advice given in 2000 by the Government about model constitutions. The wording suggested at that time was:

"If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote."

5. Advice on casting votes within the constitution therefore appears in four places, referencing of its application is confused and to a certain extent contradictory. There has been occasion recently where a chairman voted against the adoption of a report in their first vote then for in their second. Officers believe that the simpler wording, shown above, envisaged by the Government in 2000 is appropriate.

6. The Panel are asked to consider whether the suggested changes to this Standing Order are desirable.

Reason for decision:

A full review of the Constitution is being undertaken with a view to completion by March 2016.

Options considered and rejected:

All options available to the Panel are set out in paragraph 5 above. The Panel has the option of recommending no change to current arrangements.

Consultation undertaken:

Consultation will form part of the process of approving the new Constitution at a later point.

Resource implications:

Budget provision: From existing
Personnel: From existing
Land: Nil

Relevant statutory powers: Town and Country Planning Acts

Background papers: Revised Article, Current Constitution
Environmental/Human Rights Act/Crime and Disorder Act Implications: none
Key Decision reference: (if required) Not a key decision

Relevant Constitutional Extracts:

Article 5 0 Chairing the Council

5.05 Use of Casting Vote

The Chairman of the Council shall, at all times, have due regard to the requirements of the Constitution and statute law concerning the use of a "second" or "casting" vote. The Chairman shall:

- (a) give a "second" vote (after voting previously on the issue) or a "casting" vote (having not voted previously) on any issue on which there is equality of voting;
- (b) shall issue a "second" or "casting" vote in favour of the status quo unless there is a legal requirement to vote otherwise than for the status quo;
- (c) may decline to give a second or casting vote if an affirmative vote is not required on grounds of urgency or otherwise and an opportunity will arise to consider the matter again, within a reasonable period; and
- (d) shall, in the circumstances outlined in (c) above, explain such a decision to the Council.

JCC Terms of reference - Part 3(2) – Responsibility for Council Functions

(5) Chairman and Vice-Chairman

(a) A Chairman and a Vice-Chairman shall be appointed by the Committee at their first meeting in each Council year. The offices to alternate each year between the Council and Employee Sides. If the Chairman appointed is a member of the Council, the Vice-Chairman shall be appointed from the staff side, and vice-versa. The member appointed from the Council Side to be Chairman or Vice-Chairman shall be a member of the Cabinet. The Chairman of the meeting shall not have a casting vote.

Council Procedure Rules - Rule 17 – Voting

17.2 Chairman's Casting Vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. The exercise of this second or casting vote shall be in accordance with Article 5 (paragraph 5) of the Constitution.

Conventions On The Relationships Between Political Groups & Councillors With Officers

5.2 Casting Vote

In circumstances where a second or casting vote may be required, the Chairman shall consider whether to make a second or casting vote by taking advice on whether the decision is necessary and whether there will be a further opportunity to debate the issue concerned within a reasonable timescale. The Chairman may decide, dependant on that advice, not to make a casting vote or if one is cast, to vote according to the status quo. However, in some cases there is no status quo (e.g. quasi judicial decisions concerning planning, licensing and appeals of various kinds) and in those circumstances the Chairman shall vote in accordance with their judgement of the public interest. Chairmen will acknowledge at all times the

requirement under the Constitution to signify whether he or she intends to vote in the first vote on any matter before a meeting.

Planning Protocol

2.9 Chairmen of Planning Committees shall exercise the casting or second vote in accordance with the Council's constitution.....

19. Second or Casting Vote of Chairman

19.1 The Council's Constitution provides for the Chairman of the District Development Control Committee and the three Area Plans Sub-Committees to exercise a second or casting vote in the event of an equality of votes. The use of the second or casting vote should only be based on an honest appraisal of the planning matter concerned.

Report to Constitution and Members Services Scrutiny Panel



SCRUTINY

Date of meeting: 16 February 2015

**Subject: Minority References – Application of
Non-Executive Operational Standing Order 13**



Epping Forest District Council

Officer contact for further information: Simon Hill, Governance (Ext 4249)

Committee Secretary: Mark Jenkins (Ext 4243)

Recommendations/Decisions Required:

To consider whether changes are required to the provisions of the Constitution relating to Minority References.

Report:

1. (Assistant Director Governance and Performance Management) Contained within the work programme is a requirement to undertake a review of Minority References. The current wording contained within the constitution is attached as Appendix 1 to this report. These provisions are part of the Councils Operational Standing Orders – Non Executive Bodies. (rule 13 refers).
2. The rules provide that a quarter of members present (or four members of a planning committee) can stop action on any matter subject to report until the matter is considered by Council or in the case of a subordinate committee, a parent committee. The rules apply to all non-executive committees. I have not found another example of these provisions in a Council Constitution. The rule did not exist prior to 2000 when changes were made to the constitution as a result of the Local Government Act of that year.
3. In application, this rule has only been used to refer matters from Planning Subcommittees to DDCC recently. Research on applications referred to the District Development Control Committee reveals that six applications were referred during 2014 using this method, five from Area Plans South and one from Area Plans East.
4. The rule, as currently drafted, means that four members (or a quarter) can remove the power to either determine or come to a recommendation on any matter in favour of determination at a higher level. The planning committees new draft article continues the practice of allowing referral for any reason should a majority of those present at a meeting so request.
5. Officers make the following suggestions to members for potential changes as part of the review:
 - (i) the rule could be made to apply only to Planning Committees, apply the quarter rule (and at least four) and included in the new Article elsewhere on this agenda;

- (ii) the addition of the words 'immediately after a vote has been taken' after 'to require' in para 13(1);
- (iii) that the application of the rule to Committees should be made clearer; or
- (iv) the rule could be removed completely.

6. The Panel are asked to consider whether any changes to this Standing Order are desirable.

Reason for decision:

A full review of the Constitution is being undertaken with a view to completion by March 2016.

Options considered and rejected:

All options available to the Panel are set out in paragraph 5 above. The Panel has the option of recommending no change to current arrangements.

Consultation undertaken:

Consultation will form part of the process of approving the new Constitution at a later point.

Resource implications:

Budget provision: From existing
Personnel: From existing
Land: Nil

Relevant statutory powers: Town and Country Planning Acts

Background papers: Revised Article, Current Constitution
Environmental/Human Rights Act/Crime and Disorder Act Implications: none
Key Decision reference: (if required) Not a key decision

13. Minority References

(1) It shall be competent for at least one quarter (rounded up to the nearest whole number) of the number of Council members of a Committee present at a meeting of that Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the Council. In the case of Sub-Committees acting under delegated authority (except for Plans Sub-Committees) it shall be competent for one quarter (rounded up to the nearest whole number) of the members of that Sub-Committee present at a meeting of that Sub-Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the parent committee.

(2) In relation to Area Plans Sub-Committees it shall be competent for at least four members of that Sub-Committee present at a meeting of that Sub-Committee to require that no action be taken on a particular matter until it has been considered by the District Development Control Committee.

(3) This Standing Order shall apply only to items of business at a committee or sub-committee meeting and not to those submitted for information or report.

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