

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

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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.