

Notice of Meeting

Governance and Audit Committee

Monday, 21st November, 2011 at 6.00 pm
in Council Chamber Council Offices
Market Street Newbury

Date of despatch of Agenda: Friday, 11 November 2011

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on (01635) 519462
e-mail: schard@westberks.gov.uk

Further information and Minutes are also available on the Council's website at
www.westberks.gov.uk



Agenda - Governance and Audit Committee to be held on Monday, 21 November 2011
(continued)

To: Councillors Jeff Beck (Chairman), Paul Bryant, David Holtby, Tony Linden, Julian Swift-Hook (Vice-Chairman), Tony Vickers and Quentin Webb
Substitutes: Councillors Brian Bedwell, Adrian Edwards, Alan Macro and David Rendel

Agenda

Part I	Page No.
1. Apologies To receive apologies for inability to attend the meeting (if any).	
2. Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 29 th September 2011.	1 - 4
3. Declarations of Interest To receive any Declarations of Interest from Members.	
4. Amendments to Parts 7, 8 and 12 of the Council's Constitution (C2349) <i>Purpose: To consider potential amendments to the Constitution</i>	5 - 64

Andy Day
Head of Policy and Communication

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Moira Fraser on telephone (01635) 519045, who will be able to help.



Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

GOVERNANCE AND AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY, 29 SEPTEMBER 2011

Councillors Present: Jeff Beck (Chairman), Tony Linden, Alan Macro (Substitute) (In place of Julian Swift-Hook - arrived 6.27pm), Tony Vickers (arrived 6.22pm) and Quentin Webb

Also Present: David Holling

Apologies for inability to attend the meeting: Councillor Julian Swift-Hook

Councillor(s) Absent: Councillor Paul Bryant and Councillor David Holtby

PART I

17. Minutes

The Minutes of the meeting held on 5 September 2011 were approved as a true and correct record and signed by the Chairman.

18. Declarations of Interest

There were no declarations of interest received.

19. Amendments to the Constitution - Scheme of Delegation (C2304)

The Committee considered a report (Agenda Item 4) which detailed proposed amendments to the Scheme of Delegation. David Holling in introducing the item reported that throughout this part of the Constitution, the words 'Officer Delegation Rules' had been replaced by 'Scheme of Delegation' and that the index had not yet been updated but following agreement at this meeting to the changes already submitted and any additional changes agreed at the meeting, it would be.

During the discussion of the item, the changes set out in the table below were proposed:

Constitution Page No	Paragraph	Change	Comments
13	3.3.3, 11 th bullet point	Use a capital C in the word <u>C</u> ouncil's relevant policies	amended
15	3.3.6 3.3.6(a)	Members queried whether the deleted text extracts set out below had been reincorporated into the Scheme of Delegation for the relevant Head of Service: To inspect arrangements for the care of children accommodated in independent schools in accordance with Section 87 of the Children Act 1989	This provision should be deleted- responsibility falls to the National Care Standards Commission as a result of the Care

GOVERNANCE AND AUDIT COMMITTEE - 29 SEPTEMBER 2011 - MINUTES

	3.3.6(b)	To approve the registration of residential homes under Section 5 of the Registered Homes Act 1984 or any subsequent amending legislation.	Standards Act 2000 This paragraph needed to be deleted as responsibility now fell to the Care Quality Commission – Regulations Homes Act 1984 repealed.
	3.3.6(c)	In consultation with an authorised Officer of the appropriate Health Authority to approve the registration of nursing agencies under Section 2 of the Nurses Agencies Act	This paragraph needed to be deleted as the Nurses Agencies Act 1957 repealed – meant that responsibility for approving registration of nursing agencies lay with health authority.
20	Below the table	Insert the wording: ‘The following delegations are granted to the Heads of Services set out in section 3.5 to 3.17 below’.	amended
21	3.5.3	Delete ‘Public Procurement Regulations’ and insert ‘Contract Rules of procurement	amended
24	3.6.1 first bullet point	Delete the word ‘the’ and insert the word ‘and’.	amended
39	3.14.9 last bullet point	Add a full stop at the end of the sentence.	amended
45	3.15.6 first bullet point on page 45	Delete the word ‘those’	amended
45	3.15.6 second bullet point on page 45	Delete the word ‘where the Head of Planning and Countryside considers it appropriate’.	amended

Members queried the following paragraphs:

1. 3.3 3 which included the insertion of the bullet point ‘employment of consultants to advise on specialist aspects of work within the relevant Service Area’ . It was noted that this function was originally only delegated to the Head of Property. During the updating of the Scheme of Delegation Officers, felt that it would be prudent to permit all Heads of service to employ specialist consultants should the need arise. This would have to be done within existing resources however.
2. Members requested that Planning Officers review paragraphs 3.15.8 and 3.15.9 prior to the report being considered at Council, to ensure that the information was accurate. Councillor Vickers raised some concern about the text that had been

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deleted and requested that an explanation as to why this had happened be included in the covering report for Council.

3. Councillor Vickers noted that a significant number of deletions had been made to page 69 of the report and felt that it would be useful to include an explanation as to why these deletions had been made in the report. It was noted that these deletions were part of the realignment of functions with the duties described being transferred to the Head of Planning and Countryside.

RESOLVED that:

1. The proposed amendments would be approved for consideration by full Council on 25 October 2011.
2. David Holling would provide a note to Members of the Governance and Audit Committee to provide a response to their queries.
3. The Index would be updated prior to consideration at Council.

(The meeting commenced at 6.00 pm and closed at 6.58 pm)

CHAIRMAN

Date of Signature

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Agenda Item 4.

Title of Report:	Amendments to Parts 7, 8 and 12 of the Council's Constitution
Report to be considered by:	Council
Date of Meeting:	6 December 2011
Forward Plan Ref:	C2349

Purpose of Report:

To consider the amendments to Parts 7, 8 and 12 of the Constitution following a review of these sections of the Constitution by the Finance and Governance Group.

Recommended Action:

To discuss the proposed and any additional revisions to Parts 7, 8 and 12 of the Constitution and to recommend the agreed amendments to full Council for approval.

Reason for decision to be taken:

To ensure that the Council has established a Constitution that is in accordance with statutory requirements / good practice and that there are processes in place ensuring the effective management and maintenance of the Constitution in accordance with good practice guidelines (e.g. CIPFA / SOLACE Code of practice for Corporate Governance)

Other options considered:

None

Key background documentation:

The Local Government Act 2000 (Constitution) (England) Direction 2000

The proposals will also help achieve the following Council Plan Themes:

- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

Ensuring that the Constitution is up to date and applies with legislation

Member Details	
Name & Telephone No.:	Councillor Jeff Beck (Chairman of Governance and Audit Committee) – Tel (01635) 44770
E-mail Address:	jbeck@westberks.gov.uk
Date Portfolio Member agreed report:	11 November 2011
Contact Officer Details	
Name:	Moira Fraser
Job Title:	Democratic Services Manager
Tel. No.:	01635 519045
E-mail Address:	mfraser@westberks.gov.uk

Implications

Policy: Will include changes to the Constitution
Financial: None – will be undertaken within existing resources
Personnel: None
Legal/Procurement: Will include changes to the Constitution
Property: None
Risk Management: None
Equalities Impact Assessment: Stage one EIA completed

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input checked="" type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

Executive Summary

1. Introduction

- 1.1 Following an internal audit of the Management of the Constitution in 2010 it was noted that one of the responsibilities of the Finance and Governance Group is to have ownership of the Council's Constitution. The content of the Local Code of Corporate Governance says that there will be an annual review of the operation of the Constitution.
- 1.2 A timetable has now been established for the Finance and Governance Group to review individual sections of the Constitution and a number of Officers have been involved in revising specific parts of the Constitution. This report proposes amendments to Parts 7, 8 and 12 of the Constitution.

2. Proposals

- 2.1 That the amendments to Parts 7, 8 and 12 of the Council's Constitution are approved in order to ensure that the Council has established a Constitution that is in accordance with statutory requirements / good practice and that there are processes in place ensuring the effective management and maintenance of the Constitution in accordance with good practice guidelines (e.g. CIPFA / SOLACE Code of Corporate Governance).

3. Conclusion

- 3.1 The report is a required update, due to the changes in service areas, governance arrangements and changes to legislation and good practice guidelines.

Executive Report

1. Introduction

- 1.1 The internal audit review of the Constitution made a number of recommendations to enhance the management of the Constitution including:
- (1) That the Finance and Governance Group should establish a process to review the content and application of the Constitution on an annual basis in accordance with the requirements of the Council's Local Code of Corporate Governance.
 - (2) That members of the Finance and Governance Group are allocated responsibility for maintaining specific Articles and Rules of the Constitution.
 - (3) That the Finance and Governance Group should monitor progress of proposed amendments to the Constitution to ensure that they are appropriately approved and published.
- 1.2 A timetable was established for the Finance and Governance Group to review individual sections of the Constitution and relevant Officers have been allocated responsibility for maintaining specific parts of the Constitution. Given the wide ranging nature of the Constitution a number of Officers have contributed to the review of each Part.
- 1.3 This report proposes amendments to Parts 7, 8 and 12 of the Constitution. The review has been comprehensive and has led to a rewriting of sections of the Constitution. Amendments to these parts have however not been as extensive. This is largely because no formal review process has been in place previously and a number of changes have been made in the way the Council's procedures operate.

2. Outline of the main changes

- 2.1 Part 7 – Regulatory and Other Committees Rules of Procedure
- (1) Changes to the order of business at ordinary and extraordinary meetings of Committees and Sub-Committees.
 - (2) Attendance entitlements of non-Members of Committees.
 - (3) Rules regarding confidentiality and non-disclosure of reports.
 - (4) Arrangements for referencing-up and exceptions.
 - (5) The procedure for receiving and dealing with Petitions has been amended in line with the previously agreed changes to the protocol.
- 2.2 Part 8 – Access by the Public to Information Rules of Procedure
- (1) Reference to document storage at the Berkshire Records Office.
 - (2) Additional detail on what is considered to be exempt information.
- 2.3 Part 12 – Personnel Rules of Procedure
- (1) Additional detail outlining the Council's recruitment and selection policy and procedures.

3. Conclusion

- 3.1 Given the wide ranging nature of the changes made Governance and Audit are asked to review the documents as a whole, rather than to focus on changes made. Governance and Audit are then asked to make a recommendation to Full Council.

Appendices

Appendix A – Equality Impact Assessment

Appendix B - Part 7 of the Constitution

Appendix C - Part 8 of the Constitution

Appendix D - Part 12 of the Constitution

Consultees

Local Stakeholders: Not consulted

Officers Consulted: Finance and Governance Group

Trade Union: Not consulted

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Equality Impact Assessment Template – Stage One

Name of item being assessed:	Amendments to Parts 7, 8 and 12 of the Council's Constitution
Version and release date of item (if applicable):	
Owner of item being assessed:	Moira Fraser
Name of assessor:	Stephen Chard
Date of assessment:	19/10/11

1 What are the main aims of the item?

The item is to approve the amendments to Parts 7, 8 and 12 of the Council's constitution.

2 Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.

(Please demonstrate consideration of all strands – Age, Disability, Gender, Race, Religion or Belief and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this.

Further Comments relating to the item:

There are not believed to be any implications affecting any groups with this item. The item is to discuss the proposed amendments to Parts 7, 8 and 12 of the Council's constitution. This means that Officers making decisions will be required to act accordingly to Council Policy already in place, and remain neutral when making a decision.

3 Result (please tick)	
	High Relevance This needs to undergo a Stage 2 Equality Impact Assessment.
	Medium Relevance This needs to undergo a Stage 2 Equality Impact Assessment
	Low Relevance This needs to undergo a Stage 2 Equality Impact Assessment
x	No Relevance This does not need to undergo a Stage 2 Equality Impact Assessment

For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

4 Identify next steps as appropriate:	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Signed: Stephen Chard

Date: 19 October 2011

Part 7

Regulatory and Other Committees Rules of Procedure

Document Control

Document Ref:	WB/P&C/MF/2008-11	Date Created:	May 2007
Version:	1.2	Date Modified:	March 2011
Revision due	Annual		
Author:	Moira Fraser – Democratic Services Manager		
Owning Service	Policy and Communication		

Change History

Version	Date	Description	Change ID
1.1	Jan 2010	Amendments to include speaking rights for Ward Members and align them with speaking rights of other parties accorded this right.7.13.3 and 7.13.4	
1.2	March 2011	Amendment to 7.1.5 and addition of 7.1.6. Addition of Terms of Reference of Committees	
3	December 2012		



Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:

<http://www.opsi.gov.uk/legislation/uk>

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7.1 How Regulatory and Other Committees Work

7.1.1 Area Planning Committees

At the Annual Meeting of Council, or as soon as possible thereafter, the Council shall appoint two Area Planning Committees (Eastern and Western) and a District Planning Committee.

The Area Planning Committees will consider, on behalf of the Council, applications for planning permission and other Development Control issues which are either outside the process delegated to Officers or applications or issues referred to the Committee in accordance with the approved protocol. The Area Planning Committees may refer a planning application to the District Planning Committee for determination.

Recommendations from Area Planning Committees considered by the Development Control Manager and/or his representative to have a possible conflict with a policy that would undermine the Development Plan or the Local Development Framework, there is a district wide public interest or there is a possibility for claims for significant costs against the Council, will be referred to the District Planning Committee.

7.1.2 District Planning Committee

The District Planning Committee will be appointed as and when necessary and Membership shall be drawn from the Eastern and Western Area Planning Committees.

The Committee will consider, on behalf of the Council, recommendations from Area Planning Committees considered by the Development Control Manager and/or his representative to have a possible conflict with a policy that would undermine the Development Plan or the Local Development Framework, there is a district wide public interest or there is a possibility for claims for significant costs against the Council.

7.1.3 Licensing Committee

At the Annual Meeting of Council, or as soon as possible thereafter, the Council shall appoint a Licensing Committee.

The Licensing Committee will consider, on behalf of the Council as Licensing Authority, applications for licences where relevant representations have been received by the Police, any responsible authority or other interested party. The Committee will also consider licensing matters (as set out in Part 3 of this Constitution).

7.1.4 Licensing Sub-Committee

The Licensing Committee will appoint, as and when necessary, a Sub-Committee to determine applications as set out in Part 3 of this Constitution.

Deleted: where representations have been received (

7.1.5 Governance and Audit Committee

The Governance and Audit Committee shall consist of 7 Members reflecting the political balance of the Council. The Council will delegate its work in relation to challenge and independent assurance on the Risk Management Framework and associated internal control to the Committee.

Deleted: March

The main roles of the Governance and Audit Committee are to challenge and provide independent assurance on the Risk Management Framework and associated internal controls of the Council, consider and make recommendations to the Council on proposed changes to the Constitution, review the Council's financial statements and review the external auditors annual audit letter.

7.1.6 Standards Committee

The Standards Committee shall consist of 12 Members (three Independent Members, three Parish Council Representatives and six District Councillors). The composition of the District Councillors will not reflect the political balance of the Council. The Standards Committee will be chaired by an Independent Member.

The main role of the Standards Committee is to promote and maintain high standards of conduct throughout the Council. In addition it should promote, educate and support Councillors (both District and Parish) in following the highest standards of conduct and ensuring that those standards are fully owned locally.

The Standards Committee has established three sub-committees to deal with any complaints received in respect of District or Parish Councillors' behaviour.

The Standards Committee also has a role in considering and recommending improvements to the relevant sections of the Constitution covering the conduct of Councillors and ethical standards of the Council.

7.1.7 Personnel Committee

The Personnel Committee shall consist of 5 Members reflecting the political balance of the Council. The Council will delegate its work in relation to agreeing and making changes to HR [and Health and Safety](#) Policies and Procedures, appointing staff at Head of Service level and above by means of an Appointments Panel, and for determining requests for the early release of pensions, subject to the financial implications of each request being approved the Executive decision-making process.

7.1.8 Appointment of Chairman and Vice-Chairman

Each Committee, Sub-Committee, Panel and Task Group shall at its first meeting, before proceeding to any other business, elect a Chairman and Vice-Chairman who shall hold office for the same period as the Committee or such shorter period as may be determined at any time by the Council.

If a Chairman or Vice-Chairman ceases to hold office the Committee shall elect a new Chairman or Vice-Chairman at its next meeting.

The Chairman of Council shall not be elected Chairman or Vice-Chairman of any Committee during his/her period of office.

7.2 Order of Business

7.2.1 Ordinary Meetings

Meetings for the transaction of general business shall be held on such days as the Council decides and as specified in the timetable of meetings.

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7.2.2 Order of Business - Ordinary Meetings of Committees and Sub-Committees

The order of business at an ordinary meeting of a Committee or Sub-Committee shall be to:

- a) elect a person to preside if the Chairman or Vice-Chairman are not present;
- b) receive apologies for the inability to attend the meeting;
- c) approve the Minutes of the last meeting;
- d) receive any declarations of interest from Members;
- e) receive petitions from Members.
- f) receive responses of the Council, Executive or other Committees to reports of the relevant Committee; and
- g) consider any business specified in the agenda to the meeting.

7.2.3 Extraordinary Meetings

The Chairman of a Committee or Sub-Committee may direct the summoning of an extraordinary meeting of a Committee, Sub-Committee at any time.

The Head of Policy and Communication shall summons an extraordinary meeting of a Committee or Sub-Committee if three members of the Committee have requisitioned the Chairman of the Committee or Sub-Committee to summons an extraordinary meeting and he has refused to do so or has not within seven clear working days of the requisition called an extraordinary meeting to be held within twenty-one days of the requisition.

7.2.4 Order of Business - Extraordinary Meetings of Committees and Sub-Committees

The order of business at an extraordinary meeting of a Committee or Sub-Committee shall be to:

- a) elect a person to preside if the Chairman or Vice-Chairman are not present;
- b) receive apologies for the inability to attend the meeting;
- c) receive any declarations of interest from Members;
- d) consider any business specified in the agenda to the meeting.

[Note: No Petitions may be received at an Extraordinary Meeting.]

7.2.5 Variation

With the exception of business specified in (a)-(d) of Rule 7.2.2 and (a)-(c) of Rule 7.2.4 above, the order of business may be varied at the discretion of the Chairman.

Deleted: March

7.3 Meetings of Regulatory and Other Committees

7.3.1 Adjustment to Dates

The Chairman of the relevant Committee or Sub-Committee in consultation with the Vice-Chairman and the Head of Policy and Communication, may make any adjustment to the date, time and place of meetings considered necessary or desirable.

7.3.2 Absence of Chairman and Vice-Chairman

If the Chairman and Vice-Chairman of Council are absent from a meeting another Member of the Committee elected by the Members present shall preside.

7.3.3 Electronic Communication Devices

There shall be a ban on the inappropriate and unauthorised use of electronic communications devices at all meetings.

7.3.4 Quorum

The quorum for Committees and Sub-Committee meetings shall be as follows:

- Committees: One third of the whole number of Members of the Committee or four Members whichever is the greater.

[Note: The numbers above do not include named substitutes unless they are representing a Member of the Council who is unable to attend. (Rule 7.3.4 Appointment of Substitute below refers).]

- Licensing Sub-Committees: Three Members.
- Urgency Sub-Committees: Three Members.
- Other Sub-Committees, Panels or Task Groups: One-third of the whole number of Members of the Sub-Committee, Panel or Task Group or three Members, whichever is the greater.

7.3.5 Substitutes

General

In respect of Regulatory or other Committees, there shall be appointed for the Municipal Year such number (if any) of substitute members as Council may from time to time determine.

Appointment of Substitute

If any member of a Regulatory or other Committee is unable to attend a meeting of the Committee or Sub-Committee they may appoint one of the nominated substitute members for that Committee or Sub-Committee to act in their place at the meeting. The appointment shall only take effect if the member making the appointment, or in the Member's absence their Group Leader or Deputy Group Leader, notifies the Head of Policy and Communication no later than 30 minutes before the meeting that they will be unable to attend the meeting and of the name of the appointed substitute Member.

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Deleted: <#>Ordinary Meetings¶
 Meetings for the transaction of general business shall be held on such days as the Council decides and as specified in the timetable of meetings.¶

<#>Extraordinary Meetings¶
 The Chairman of a Committee or Sub-Committee may direct the summoning of an extraordinary meeting of a Committee, Sub-Committee at any time.¶

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Deleted: <#>Smoking ¶
 There shall be a ban on smoking at all meetings.¶

Mobile Phones

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[Note: The Licensing Committee may not appoint substitutes although a named substitute is appointed to all Licensing Sub-Committees (drawn from the membership of the Licensing Committee)].

Changing Substitutes

A substitute may be changed during the municipal year provided that the Head of Policy and Communication or designated Officer receives a written request from the appropriate Group Leader or Deputy Group Leader no later than 30 minutes before the meeting.

7.3.6 Attendance of Non-Members of Committees

Members of the Council shall be entitled to attend the proceedings of all Committees, Sub-Committees, Panels and Task Groups.

Members of the Council who are not Members of the Committee, Sub-Committee, or Panel (except Appointment/Appeals Panels) and Task Groups may speak during the proceedings of those bodies in the following circumstances (subject to statutory limitations):

- if the Chairman consents (subject to statutory limitations);
- in explanation of a Motion referred to it;

if, in the case of an Area Planning Committee, a matter affects the Member's ward;

if a relevant representation has been made under the Licensing Act 2003 within the approved period.

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7.3.7 Continuation of Meeting

Meetings of the Regulatory or other Committees or Sub-Committees should not normally continue past 10.00pm. If however the Chairman believes that business could be concluded by 10.30pm, a Motion under Rule 7.6.2 (Motions which may be Moved without Notice) must be moved and supported by a majority of those Members present. All meetings will conclude by 10.30pm at the latest

7.3.8 Committee and Sub-Committee Agendas

The Head of Policy and Communication will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules of Procedure [Part 8](#). The Head of Policy and Communication will provide to every Member of the Committee or Sub-Committee an agenda, at least five clear working days before a meeting unless the meeting is convened at shorter notice as a matter of urgency. The agenda will give the date, time and place of the meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

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[Note: Clear working days do not include day of agenda despatch or day of meeting]

Members may raise an item of business at a Committee or Sub-Committee meeting by notifying the Head of Policy and Communication of the subject matter on or by the Monday two weeks before the meeting. That item shall be included on the agenda for the meeting together with a

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report of appropriate Officers. This process will not be applied to Licensing or Planning Committees.

Subject to Rule (d) below, copies of all Committee and Sub-Committee agendas and reports shall be circulated to all Members and substitutes of the relevant Committee or Sub-Committee. Copies of the agenda and reports relating to Area Planning Committees shall only be circulated to:

- Members of the Committee;
- Members representing the wards within the area of the Committee;
- other Members on request.

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<#>**Attendance of Non-Members of Committees**¶
Members of the Council shall be entitled to attend the proceedings of all Committees, Sub-Committees, Panels and Task Groups.¶
Members of the Council who are not Members of the Committee, Sub-Committee, or Panel (except Appointment/Appeals Panels) and Task Groups may speak during the proceedings of those bodies in the following circumstances:¶
<#>if the Chairman consents;¶
<#>in explanation of a Motion referred to it;¶
if, in the case of an Area Planning Committee, a matter affects the Member's ward.

7.3.9 Confidentiality and Non-Disclosure of Reports

Reports to Committees, Sub-Committees, Panels or Task Groups which are "not for publication" in accordance with the statutory provisions on the grounds that they contain confidential or exempt information shall be treated as confidential and shall not be disclosed by a Member or Officer of the Council unless the Committee, Sub-Committee, Panel or Task Group decides otherwise.

After the meeting of the Committee, Sub-Committee, Panel or Task Group the information shall continue to be treated as confidential except insofar as it ceases to be confidential by virtue of the statutory provisions or its inclusion in the Minutes of the meeting which are made available for public inspection.

7.3.10 Referencing-up

Subject to Rule 7.3.10 below, where:

- (a) an application referred to an Area Planning Committee:
- is considered by the Development Control Manager and/or his representative to have a possible conflict with a policy that would undermine the Development Plan or the Local Development Framework, there is a district wide public interest or there is a possibility of a claim for significant costs against the Council; or
 - following a vote on the matter /application where the majority of Members of an Area Planning Committee so resolve

then the application shall be referred to the District Planning Committee;

- (b) a matter is referred to the District Planning Committee in accordance with (a) above, the matter shall be determined by the District Planning Committee in accordance with Rule 7.9 - Rules of Debate.

7.3.11 Exceptions

Rule 7.3.9 (Referencing-up) shall not apply to any matter which:

- is being considered by a special meeting of a Committee or Sub-Committee which has been called because of the urgency of the matter; or

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- is being considered by an ordinary meeting of a Committee or Sub-Committee and in respect of which the Chairman of the meeting acting reasonably considers that delay in determining the matter would prejudice the Council's position; or
- involves the hearing of representations (except in connection with petitions and planning applications) from persons other than Members of the Council.

7.4 Minutes of Committees and Sub-Committees

7.4.1 Approval

The Chairman of the Committee or Sub-Committee shall move “that the Minutes of the meeting of the (*specify which*) Committee/Sub-Committee held on (*date*) be signed as a correct record”.

7.4.2 Accuracy

Only the accuracy of the Minutes may be questioned and an amendment put forward to propose a change of wording. As soon as any such amendment has been agreed, the Chairman will sign the Minutes.

[Note: Any amendments to the Minutes should be set out in the Minutes of the subsequent meeting and not marked on the original set of Minutes under discussion. However, if the Minutes are amended they should be annotated with the words "These Minutes have been amended".]

7.4.3 Signing Minutes

Minutes shall be submitted to and signed at the next meeting of the Committee which is not an extraordinary meeting.

Due to the nature of the Licensing Sub-Committee Minutes (Record of Proceedings), these will be circulated after the meeting to the three Members of the Sub-Committee for them to sign as a true and correct record.

7.5 Urgent Items going to Urgency Sub-Committees

7.5.1 Definition of Urgent Items

For the purposes of this Procedure Rule urgent item" means an item of business which needs to be decided before the next meeting of the appropriate Committee and which cannot be dealt with under the existing Scheme of Delegation to Officers.

7.5.2 Decisions by Urgency Sub-Committees

Before an item is submitted to an Urgency Sub-Committee the appropriate Corporate Director shall, where possible, consult the Chief Executive and Chairman of the Committee and a statement as to the urgency shall be included in the report on the item.

7.5.3 Minutes of Urgency Sub-Committee Meetings

The Minutes of meetings of Urgency Sub-Committees shall be submitted to the next meeting of the appropriate Standing Committee.

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<#>Order of Business¶
<#>Ordinary Meetings of Committees and Sub-Committees ¶
The order of business at an ordinary meeting of a Committee or Sub-Committee shall be to:¶
<#>elect a person to preside if the Chairman or Vice-Chairman are not present;

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<#>receive apologies for the inability to attend the meeting;

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<#>approve the Minutes of the last meeting;

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<#>receive any declarations of interest from Members;

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<#>receive petitions. ¶

Deleted: **[Note: Petitions relating to planning applications will normally be received by Officers during the planning consultation process.]¶**

Deleted: f) . receive responses of the Council, Executive or other Committees to reports of the relevant Committee; and¶
g) . consider any business specified in the agenda to the meeting.¶

<#>Extraordinary Meetings of Committees and Sub-Committees ¶
The order of business at (... [1])

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<#>receive apologies for the inability to attend the meeting;

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<#>consider any business specified in the agenda to (... [2])

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<#>Members of the Cou (... [3])

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7.5.4 Items Affecting Policy

Items which would be of major significance to the established policies of the Council shall not be dealt with under this Rule of Procedure.

7.5.5 Late Urgent Reports

If an urgent matter arises after an agenda for a meeting has been published, the Chairman may consent to a late urgent report being submitted to the Committee, Sub-Committee, Panel or Task Group.

The author(s) of such reports must, if possible, consult the appropriate Members (e.g. Ward Member or Member representative on an outside body) and include details of this consultation in their report.

The report must be circulated as soon as practicable to all Members who would usually receive the report, plus those consulted, even if this is after the meeting.

7.6 Petitions

7.6.1 Scope of Petitions

The Council welcomes petitions and recognises that they are one way in which people can let the Council know about their concerns. Petitions must relate to Council business or to matters of concern to the District of West Berkshire and fall within the terms of the body to which they are presented. Petitions will be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedure Rules for Dealing with Representations). Petitions may only be presented at one forum of the Council which will include petitions handed directly to the appropriate Council Officer.

7.6.2 Inspection of Petitions

Paper petitions received by the Council will be available for public inspection during the Council's opening hours from Policy and Communication. Copies of the nature of paper petitions submitted at Regulatory and other Committee meetings will also be placed on the Council's petition website. The Council's website also hosts ePetitions available for public inspection.

7.6.3 Notice of Petitions

Where sufficient notice of a petition is given to the Head of Policy and Communication by 10.00am seven clear working days before the meeting details will be included in the agenda.

7.6.4 Presentation of Petitions by Members of Council

Members of Council who receive a petition from a member of the public can either:

- a) present it at the appropriate meeting; or
- b) pass it to the appropriate Officer.

Members of the Council may present petitions directly to a Committee or Sub-Committee and speak for up to five minutes on that petition. No

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further debate shall take place unless the relevant body receives a report on the matter.

The Chairman will advise the Councillor presenting the petition as to how the petition will be dealt with. However, if a petition relates to a matter on the agenda for the meeting of the Committee or Sub-Committee at which it is presented, it shall be dealt with at that meeting.

Petitions relating to licensing or planning applications will normally be received by Officers during the licensing or planning consultation process.

7.6.5 Presentation of Petitions by Members of the Public

Petitions will be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedure Rules for Dealing with Representations).

Members of the public are not able to present petitions to regulatory and other committees. Members of the public may present petitions to the Executive, to a Council Officer, or invite a Councillor to submit a petition on their behalf to Full Council.

7.6.6 Petitions Received Outside of the Council's Meetings

Petitions received outside of the Council's meetings (i.e. presented to an Officer), will also be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedural Rules for Dealing with Representations):

The Officer receiving the petition will acknowledge the petition and send a copy to the appropriate Ward Member(s) and notify Policy and Communication for inclusion on the Council's petition website and the Forward Plan.

Policy and Communication will invite the petition organiser to attend the meeting at which their petition is to be answered, where this response is not made by Individual Decision. A copy of the appropriate agenda and report will be sent with the letter and a copy will be sent to the Ward Member(s).

7.7 Motions

Motions must relate to matters of concern to the District of West Berkshire and to the terms of reference of the Committee or sub-Committee.

7.7.1 Submission of Motion

At any meeting of a Committee or Sub-Committee, except an extraordinary meeting that does not appear in the timetable of meetings, a Notice of Motion may be submitted under this Rule for consideration.

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7.7.2 Consideration of Motion

The Committee or Sub-Committee can debate the Motion at the meeting, or if deemed appropriate, refer the Motion to Officers for a report to be considered at a subsequent meeting.

7.7.3 Motions which may be Moved without Notice

The following Motions may be moved without notice:

- To appoint a Chairman of the meeting if the Chairman and Vice-Chairman of a Committee or Sub-Committee are absent.

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- Motions relating to:
 - accuracy of Minutes;
 - closure or adjournment of the meeting;
 - order of or next business.
- To refer any matter to the Council, the Executive, a Committee, or a Statutory Officer.
- To appoint a Task Group or members of a Task Group if it arises from an item mentioned in the Committee or Sub-Committee agenda.
- To receive minutes and reports and adopt recommendations of Committees and Officers and any consequential Motions.
- To withdraw a Motion or amendment with leave of the Chairman.
- To amend a Motion.
- To extend the time limit for speeches.
- To allow the continuation of a meeting past 10.00pm.
- To suspend a Procedure Rule in accordance with Rule 7.7.1 (Suspension, Variation and Revocation of Rules of Procedure).
- To exclude the press and public in accordance with the statutory provisions.
- That the question be now put.
- That a Member named under paragraph 7.10.1 (Behaviour of Members) be not further heard or leave the meeting
- To allow a member of the public to speak in accordance with paragraph 7.12.4 (Speaking).

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[Note: Any Procedure Rule may be suspended in accordance with Procedure Rules 7.8.1 (Suspension of Rules of Procedure) and 7.8.2 (Variation/Revocation of Rules of Procedure) provided the effect either individually or cumulatively is not to suspend all Procedure Rules.]

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7.8 Suspension, Variation and Revocation of Rules of Procedure

7.8.1 Suspension of Rules of Procedure

With the exception of Rules 7.4.3 (Signing Minutes) and 7.11.2 (Recording of Votes) any Procedure Rule may be suspended for any business at a meeting where its suspension is moved provided either:

- notice of Motion has been given; or
- at least one half of the whole number of members of the Council, Committee or Sub-Committee are present.

[Note: See Rule 7.7.3 (Motions which may be moved without notice above,)]

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7.8.2 Variation/Revocation of Rules of Procedure

Except at an Annual Meeting of the Council any Motion to vary or revoke the Rules of Procedure shall when proposed and seconded stand referred without discussion to the next ordinary meeting of the Council.

7.9 Rules of Debate

7.9.1 Seconding

A Motion or amendment shall not be discussed until it has been formally moved and seconded. When seconding a Motion or amendment, a Member may reserve his/her speech until a later period in the debate.

7.9.2 Writing

The Chairman may require a Motion or amendment to be put into writing before it is discussed or voted upon.

7.9.3 Speech content

Members shall direct speeches to the matter under discussion, a point of order or personal explanation.

7.9.4 Speech length

The Chairman may terminate a speech by a Member if he/she considers that it is not contributing to the effective working of the meeting.

7.9.5 Amendments

An amendment to a Motion must be relevant to the Motion and will either be:

- To refer a subject of debate to Council, a Committee or Statutory Officer for consideration or reconsideration unless the Chairman rules otherwise in the interests of expedience; or
- leave out words; or
- leave out words and add others; or
- insert or add words

as long as the effect of (b) to (d) is not to negate the Motion or to introduce new subject matter.

7.10 Behaviour of Members

7.10.1 Disorderly Conduct

If, at a meeting of a Committee or Sub-Committee, a Member:

- persistently disregards the ruling of the Chairman; or
- behaves irregularly, improperly or offensively; or
- willfully obstructs the business of the Committee or Sub-Committee;

any Member may move:

- that the Member named not be heard any further;
- that the Member named shall leave the meeting; and

Deleted: <#>Petitions¶
<#>Scope of Petitions¶
The Council welcomes petitions and recognises that they are one way in which people can let the Council know about their concerns. Petitions must relate to Council business or to matters of concern to the District of West Berkshire and fall within the terms of the body to which they are presented. Petitions will be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedure Rules for Dealing with Representations). P(... [4]
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- if the Motion is seconded, it be put to the vote without discussion.

7.10.2 Suspension of Sitting

If there is a general disturbance or if the named Member or member of the public continues to misbehave after a Motion under Rule 7.6.2 (Motions which may be Moved without Notice) has been carried and orderly business is prevented the Chairman may adjourn the meeting for as long as they consider necessary.

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7.11 Voting

7.11.1 Method of Voting

Voting shall be by show of hands. Unless the Constitution or the law provides otherwise any matter will be decided upon by a simple majority of those present and permitted to vote on the matter at the time the question is put.

7.11.2 Chairman’s Casting Vote

In the event of equal numbers of votes for and against the Chairman (or standing Chairman) will have a second or casting vote.

7.11.3 Recording of Votes

A record of how a vote is or votes are cast (as the case may be) will be made if:

- before a vote is taken any Member requests that the vote be recorded and three other Members support that request. In these circumstances the Monitoring Officer or his/her representative will call the name of each Member present and each Member will respond for or against the Motion or abstaining;
- immediately after a vote has been taken any Member requests that their vote for or against or their abstention be recorded.

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7.11.4 Appointments to Outside Bodies

If more than two persons are nominated for any position to be filled by a Committee or Sub-Committee on an outside body the outcome shall be determined by obtaining a simple majority of votes. If a majority is not obtained the relevant Committee or Sub-Committee can decide not to appoint. Appointments to outside bodies will be made in accordance with Appendix J to Part 13 of the Constitution (Protocol for Council Representation on Outside Bodies).

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In the event of an equality of votes the Chairman shall have a second or casting vote.¶

7.12 Press and Public

7.12.1 Admission

The press and public shall be permitted to attend meetings of Committees or Sub-Committees unless excluded under provisions contained in Part 1 Schedule 12A of the Local Government Act 1989 and in accordance with Part 8 of the Access to Information Rules of Procedure.

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7.12.2 Exclusion of Employee

During any discussion on the appointment, promotion, dismissal, salary, conditions of service or conduct of a Council employee, the employee shall not be present except to make representations on his / her own behalf either personally or by or with such representatives as the Committee may agree to receive.

7.12.3 Removal

If a member of the public interrupts the proceedings at any meeting the Chairman may, after warning, order their removal from the Committee or Sub-Committee meeting. If there is a general disturbance the Chairman shall order that the part of the room open to the public be cleared.

7.12.4 Speaking

Members of the public may only speak at a meeting if the Committee or Sub-Committee so resolves when asking a question in accordance with these Rules of Procedure.

7.12.5 Electronic Communication Devices

There shall be a ban on the inappropriate and unauthorised use of electronic communication devices at all meetings.

7.12.6 Televising and Sound Recording of Meeting

The televising and sound recording of meetings will be permitted in accordance with the protocol relating to this matter. The protocol can be found at Appendix A to Part 5.

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7.13 Planning Applications**7.13.1 Speaking Rights**

Members of the public shall be entitled to speak during the consideration of any application for any approval or consent required under Town and Country Planning legislation in accordance with Rules 7.13.2 to 7.13.5 below.

7.13.2 Notifying Head of Service

Any member of the public who wishes to speak shall notify the Head of Planning and Countryside by 4.00 p.m. on the day prior to the meeting.

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7.13.3 Procedure

The following procedure shall apply in respect of each item where any of the aforementioned persons are present:

- Introduction of item by Officers;
- Representations by Parish/Town Council representative;
- Members' questions to Parish/Town Council representative;
- Representations by objector(s);
- Members' questions to objector(s);
- Representations by supporter(s);
- Members' questions to supporter(s);

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- Representations by applicant or agent.
- Members' questions to applicant or agent;
- Representation by Ward Member(s) (if not on the Committee);
- Members' questions to Ward Member(s) (if not on the Committee);
- Consideration of application by Members.

[Note 1 : Questions raised as part of the above process may only be asked to clarify a statement made and not to introduce new business.]

[Note 2 : For the avoidance of doubt and in accordance with the Council's custom and practice, should the Committee consider an application affecting more than one Parish and/or Ward, the Chairman, with the agreement of the Committee, may allow additional speakers/representatives from the relevant Ward and/or Parish.]

7.13.4 Time Allowed

The total time allowed for speeches in respect of each of the following groups of speakers shall not exceed five minutes or such longer period as the Chairman may allow with the consent of the Council, Committee or Sub-Committee:

- Parish/Town Council representative;
- Objectors;
- Supporters;
- Applicant or agent;
- Ward Member(s) (if not on the Committee).

Where more than one individual representing the parties accorded speaking rights wishes to speak the Chairman may if he/she considers it convenient and conducive to the despatch of the business of the meeting require that a spokesperson be appointed to represent the views of the objectors or supporters as the case may be.

7.13.5 Suspension or Variation

The Chairman may:

- suspend the operation of Rule 7.13.4 above (Time Allowed) during the consideration of any application or for the remainder of the meeting if he/she considers it necessary so to do for the purpose of maintaining order at the meeting; or
- vary the order of representations if he/she considers that it is convenient and conducive to the despatch of the business and will not cause any prejudice to the parties concerned.

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Meetings of Committees and Sub-Committees shall not normally continue past 10.00pm. If, however, the Chairman believes that business can be concluded by 10.30pm, a Motion under Rule 7.6.2 (Motions which may be moved without notice) must be moved and supported by a majority of those Members present. All meetings will conclude by 10.30pm at the latest. ¶

7.13.6 Referencing-up

Subject to Procedure Rules 7.3.4 (Referencing-up) and 7.3.5 (Exceptions), the Area Planning Committees may refer a planning application to District Planning Committee for determination. Recommendations from Area Planning Committees considered by the Development Control Manager

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and/or his representative to have a possible conflict with a policy that would undermine the Development Plan or the Local Development Framework, there is a district wide public interest or there is a possibility for claims for significant costs against the Council, will be referred to the District Planning Committee; or

Following a vote on the matter/ application where the majority of Members of an Area Planning Committee so resolve will be referred to the District Planning Committee.

7.14 Licensing Applications

7.14.1 Speaking Rights

Members of the public shall be entitled to speak during the consideration of any application for any approval or consent required under the Licensing Act 2003 in accordance with Rules 7.14.2 to 7.14.4 below.

7.14.2 Procedure

The following procedure shall apply in respect of each item where any of the aforementioned persons are present:

- Introduction of item by Officers;
- Representation by Applicant/Agent;
- Members' questions to Applicant/Agent;
- Questioning of Applicant/Agent by interested parties;
- Representations by objector(s);
- Members' questions to objector(s);
- Questioning of objector(s) by interested parties;
- Representations by supporter(s);
- Members' questions to supporter(s);
- Questioning of supporter(s) by interested parties;
- Representations by Responsible Authorities;
- Members' questions to Responsible Authorities
- Questioning of Responsible Authorities by interested parties;
- Representations by Ward Member;
- Members' questions to Ward Member(s);
- Questioning of Ward Member(s) by interested parties;
- Applicant/Agent's right to address comments made at the Sub-Committee meeting;
- Consideration of application by Members.

[Note: Questions raised as part of the above process must either be for clarification, be relevant to the application or the Council's Licensing Policy)

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7.14.3 Time Allowed

The total time allowed for speeches in respect of each of the following groups of speakers shall not exceed ten minutes or such longer period as the Chairman may allow with the consent of the Sub-Committee:

- Applicant;
- Objectors;
- Supporters;
- Each Responsible Authority as defined by the Act; eg Police, Environmental Health;
- Ward Member(s)
- Applicant/Agent whilst addressing comments made at the Sub-Committee meeting.

Where more than one objector to an application wishes to speak the Chairman may if he/she considers it convenient and conducive to the despatch of the business of the meeting require that a spokesperson be appointed to represent the views of the objectors or supporters as the case may be.

[Note: If the Sub-Committee consents to a longer period for speeches this will be applicable for all those groups of speakers as set out above.]

7.14.4 Suspension or Variation

The Chairman may:

- suspend the operation of Rule 7.14.3 above (Time Allowed) during the consideration of any application or for the remainder of the meeting if he/she considers it necessary so to do for the purpose of maintaining order at the meeting; or
- vary the order of representations if he/she considers that it is convenient and conducive to the despatch of the business and will not cause any prejudice to the parties concerned.

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Meetings of Committees and Sub-Committees shall not normally continue past 10.00pm. If, however, the Chairman believes that business can be concluded by 10.30pm, a Motion under Rule 7.6.2 (Motions which may be moved without notice) must be moved and supported by a majority of those Members present. All meetings will conclude by 10.30pm at the latest.

7.14.5 Determination of Applications

Following the hearing of all the evidence the Sub-Committee will then retire to a separate room, from that used for the Sub-Committee meeting, to make its determination.

(a) In the case of a hearing under:

- Section 105(2)(a) – counter notice following police objection to temporary event notice;
- Section 167(5)(a) – review of premises licence following closure order;
- Paragraph 4(3)(a) of Schedule 8 – determination of application for conversion of existing licence;
- Paragraph 16(3)(a) of Schedule 8 – determination of application for conversion of existing club certificate; or

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- Paragraph 26(3)(a) of Schedule 8 – determination of application by holder of a justices' licence for grant of personal licence;

The Sub-Committee must make its determination at the conclusion of the hearing.

- (b) In any other case the Sub-Committee must make its determination within the period of five working days beginning with the day or the last day on which the hearing was held.

In relation to the hearings identified in (a) above once the Sub-Committee has come to a decision they will return to the meeting room and notify all parties of their determination.

Appendix A

Code of Practice Relating to Televising and Sound Recording of Meetings

The televising or sound recording of meetings of the Council, Executive, Committees or Commissions will be permitted, subject to the Code of Practice set out below:

1. Requests for permission to film or take sound recordings should be submitted 24 hours before the start of the meeting to the Head of Policy and Communication and may be refused if it is considered that the meeting room is not of an adequate size or because of reasons specified by the Head of Policy and Communication.
2. The Head of Policy and Communication shall consult the Chairman or Vice-Chairman of the meeting regarding a request to film or record a meeting.
3. Filming or recording will only be permitted for a public purpose.
4. Television crews or persons undertaking sound recording shall comply with the requests of the Head of Policy and Communication or his/her representatives as to arrangements for filming and recording.
5. No filming or recording will be permitted, and persons present for those purposes will be required to leave the meeting, if a resolution is passed under Section 100A of the Local Government Act 1972 excluding the press and public from the meeting.
6. Filming or recording of a member of the public will only be permitted if the Executive, Committee, Sub-Committee, etc., agrees.
7. Filming or sound recording must not cause any nuisance or interfere with any electronics or with the conduct of the meeting.
8. No link will be permitted to the Council's sound recording equipment, neither may any equipment be placed on tables within the area occupied by Members or Officers.
9. If there is a breach of this Code of Practice, the Chairman may at his or her discretion, after a warning, order that no further sound recording or filming shall take place during the meeting.

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Appendix B

Terms of Reference of Committees

Area Planning Committees and District Planning Committee

See Part 3 – Scheme of Delegation.

Licensing Committee and Sub-Committee

See Part 3 – Scheme of Delegation.

Governance and Audit Committee

The overall purpose of the Governance and Audit Committee is to provide effective challenge across the Council and independent assurance on the risk management framework and associated internal control environment to Members and the public, independently of the Executive.

Specifically the Governance and Audit Committee will:

- Consider and make recommendations to the Council on proposed changes to the Constitution.
- Consider any issues emanating from the Government and determine their effect on the Council's business and governance processes.
- Review the effectiveness of the Council's Risk Management arrangements, the control environment and associated Anti Fraud and Corruption arrangements.
- Seek assurance that action is being taken on risk related issues identified by auditors and inspectors.
- Be satisfied that the Council's assurance statements (currently produced annually by all Heads of Service) and the Annual Governance Statement properly reflect the risk environment and any actions required to improve it.
- Be satisfied that any Partnership that the Council enters into has robust Governance and Risk Management arrangements and that any risk to the Council from the Partnership is minimised.
- Approve the Internal Audit Strategy and Plan (to ensure that there is adequate coverage) and monitor performance (assessing whether adequate skills and resources are available to provide an effective function).
- Review summary internal audit reports and the main issues arising and seek assurances that action has been taken where necessary.
- Receive the annual report from the Head of Internal Audit.
- To consider any issues brought to the attention of the Committee, or Chair and Vice-Chair, by the Head of Internal Audit at any time during the year.
- Consider reports of external audit and inspection agencies.

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- Ensure that there are effective relationships between external and internal audit and inspection agencies and other relevant bodies and that the value of the audit process is actively promoted.
- Review the financial statements, including the suitability of accounting policies and treatments, provisions or adjustments.
- Review the external auditors annual audit letter, any other reports and opinion and monitor management action in response to issues raised. (Also comment on the external auditors planned work programme.)

Standards Committee

The general functions of the Standards Committee are:

- promoting and maintaining high standards of conduct by Members and co-opted Members; and
- assisting Members and co-opted Members to observe the Code of Conduct.

The terms of reference for the Committee are:

- promoting, monitoring and reviewing the rules controlling the behaviour of Councillors and Officers (Code of Conduct);
- recommending improvements to the relevant sections of the Constitution covering Councillor conduct and ethical standards;
- to initially assess and review complaints against West Berkshire Councillors and Parish and Town Councillors in West Berkshire and to decide what action (if any) to take;
- to consider the results of any investigation into the behaviour of Councillors and decide whether their behaviour has broken the rules described above. If the Councillor is found to have broken the rules, the Committee decide what punishment to impose;
- to provide advice and guidance to Members, Parish Councillors and Officers and to make arrangements for training them on standards issues; and
- to advise the Council about changes which need to be made to the code of conduct for Members and Officers and to promote, monitor and review these codes.

Each of the Standards Committee's Sub-Committees (Assessment Sub-Committee, Review Sub-Committee and Hearing Panel) also has their own Terms of Reference which are available on request from the Democratic Services Manager.

Personnel Committee

That, in order to comply with the Regulations under the Local Government Act 2000, the Council appoint a Personnel Committee (reporting direct to Council) consisting of five Members with the following terms of reference:

- powers to appoint staff at Head of Service level and above by means of an Appointments Panel.

(Note: The Appointments Panel shall be selected from a pool of relevant Members.)

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- powers to determine requests for the early release of pensions subject to the financial implications of each request being approved through the Executive decision making process.
- powers to appoint Proper Officers.
- powers to designate officers as Head of Paid Service, Monitoring Officer and Section 151 Officer.
- powers to agree the financial implications of requests for the early release of pensions, subject to the personnel aspects of each request being approved by the Personnel Committee.
- to approve new and revised Human Resources and Health and Safety Policies
- to approve new and revised Human Resources and Health and Safety Procedures.

The power to approve new and revised Human Resources and Health and Safety policies and procedures be delegated to the Chief Executive. The Chief Executive may decide to refer particular Human Resources policies and procedures to the Personnel Committee rather than exercise the delegation.

- f) receive responses of the Council, Executive or other Committees to reports of the relevant Committee; and
- g) consider any business specified in the agenda to the meeting.

Extraordinary Meetings of Committees and Sub-Committees

The order of business at an extraordinary meeting of a Committee or Sub-Committee shall be to:

elect a person to preside if the Chairman or Vice-Chairman are not present;

consider any business specified in the agenda to the meeting.

[Note: No Petitions may be received at an Extraordinary Meeting.]

Variation

With the exception of business specified in (a)-(d) of Rule 7.3.1 and (a)-(c) of Rule 7.3.2 above, the order of business may be varied at the discretion of the Chairman.

Referencing-up

Subject to Rule 7.3.5 below, where:

- (a) an application referred to an Area Planning Committee:
 - is considered by the Development Control Manager and/or his representative to have a possible conflict with a policy that would undermine the Development Plan or the Local Development Framework, there is a district wide public interest or there is a possibility of a claim for significant costs against the Council; or
 - following a vote on the matter /application where the majority of Members of an Area Planning Committee so resolve
 then the application shall be referred to the District Planning Committee;
- (b) a matter is referred to the District Planning Committee in accordance with (a) above, the matter shall be determined by the District Planning Committee in accordance with Rule 7.9 - Rules of Debate.

Exceptions

Rule 7.3.4 (Referencing-up) shall not apply to any matter which:

- is being considered by an Urgency Sub-Committee, or by a special meeting of a Committee or Sub-Committee which has been called because of the urgency of the matter; or

is being considered by an ordinary meeting of a Committee or Sub-Committee and in respect of which the Chairman of the meeting acting reasonably considers that delay in determining the matter would prejudice the Council's position; or

concerns the appointment, discipline or dismissal of a member of staff; or

involves the hearing of representations (except in connection with petitions and planning applications) from persons other than Members of the Council.

Attendance of Non-Members of Committees

Members of the Council shall be entitled to attend the proceedings of all Committees, Sub-Committees, Panels and Task Groups.

Members of the Council who are not Members of the Committee, Sub-Committee, or Panel (except Appointment/Appeals Panels) and Task Groups may speak during the proceedings of those bodies in the following circumstances:

if the Chairman consents;

in explanation of a Motion referred to it;

if, in the case of an Area Planning Committee, a matter affects the Member's ward.

Petitions

Scope of Petitions

The Council welcomes petitions and recognises that they are one way in which people can let the Council know about their concerns. Petitions must relate to Council business or to matters of concern to the District of West Berkshire and fall within the terms of the body to which they are presented. Petitions will be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedure Rules for Dealing with Representations). Petitions may only be presented at one forum of the Council which will include petitions handed directly to the appropriate Council Officer.

[Note:

Petitions may only be presented at one forum of the Council which will include petitions handed direct to the appropriate Council Officers.

Petitions requesting the Council to review a decision or policy in relation to a quasi-judicial matter (Licensing, etc.) shall not be presented to the Council, Executive, Overview and Scrutiny, Regulatory and other Committees until and unless the other means of appeal available to an appellant (Magistrates and County Court) have been activated.

The presentation of petitions is subject to the Procedure Rules covering the Six Month Rule (4.14.1) and may not therefore be resubmitted to a Council forum unless the provisions of the Six Month Procedure Rule are met.]

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Inspection of Petitions

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etitions received by the Council will be available for public inspection during the Council's opening hours from

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Policy and Communication. Copies of the nature of paper petitions submitted at Regulatory and other Committee meetings will also be placed on the Council's petition website. The Council's website also hosts ePetitions available for public inspection.

Notice of Petitions

Where sufficient notice of a petition is given to the Head of Policy and Communication by 10.00am seven clear working days before the meeting details will be included in the agenda.

Presentation of Petitions by Members of Council

Members of Council who receive a petition from a member of the public can either:

present it at the appropriate meeting; or

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pass it to the appropriate Officer.

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Petitions relating to planning applications will normally be received by Officers during the planning consultation process.

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Members of the Council may present petitions directly to a Committee or Sub-Committee and speak for up to five minutes on that petition. No further debate shall take place unless the relevant body receives a report on the matter.

The Chairman will advise the Councillor presenting the petition as to how the petition will be dealt with. However, if a petition relates to a matter on the agenda for the meeting of the Committee or Sub-Committee at which it is presented, it shall be dealt with at that meeting.

Petitions relating to licensing or planning applications will normally be received by Officers during the licensing or planning consultation process.

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Only Members of the Council may present petitions to Council and must do so by formally reading or summarising the petition, giving details of the number of signatures and stating its purpose. They must not otherwise address the Council unless the Chairman so consents,

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Presentation of Petitions by Members of the Public

Petitions will be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedure Rules for Dealing with Representations).

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Petitions relating to planning applications will normally be received by Officers during the planning consultation process.

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Members of the public are not able to

an Officer or to a Committee or Sub-Committee and speak for up to five minutes on that petition.

No further debate shall take place unless the relevant body receives a report on the matter.

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regulatory and other committees. Members of the public may present petitions to the Executive, to a Council Officer, or invite a Councillor to submit a petition on their behalf to Full Council.

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The petitioner will be advised either by the Chairman of the body where the petition was presented, or by the Head of Policy and Communication, within three clear working days, as to where the petition will be referred.

However, if the petition relates to a matter on the agenda for the meeting of the Committee at which it is presented, it shall be dealt with at that meeting.

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Petitions Received Outside of the Council's Meetings

Petitions received outside of the Council's meetings (i.e. presented to an Officer),

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should abide by the following procedure

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will also be dealt with in accordance with Appendix C to Part 13 of the Constitution (Procedural Rules for Dealing with Representations):

The Officer receiving the petition will acknowledge the petition and send a copy to the appropriate Ward Member(s) and notify Policy and Communication for inclusion on the Council's petition website and the Forward Plan.

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If the petition has less than 10 signatures, then the matter will be dealt with by the appropriate Officer.

If the petition has more than 10 signatures, then the Officer will complete a 'Petition Submission Form' and send a copy of the petition, the 'Submission Form' and the acknowledgement letter to the Policy and Communication Service Unit. The 'Submission Form' will identify to which decision-making body i.e. the Executive meeting the response will be tabled and on which date.

The Policy and Communication Service Unit will record centrally the petition and, using the information provided on the

'Submission Form', will ensure that the item is included on the West Berkshire Council Forward Plan.

The

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Policy and Communication

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will invite the petition organiser

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to attend the meeting at which their petition is

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to be answered, where this response is not made by Individual Decision. A copy of the appropriate agenda and report will be sent with the letter and a copy will be sent to the Ward Member(s).

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or of negating the Motion before the Committee

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Part 8

Access by the Public to Information Rules of Procedure

Document Control

Document Ref:	WB/P&C/MF/2008-11	Date Created:	April 2007
Version:	1	Date Modified:	
Revision due			
Author:	Moirra Fraser – Democratic Services Manager		
Owning Service	Policy and Communication		

Change History

Version	Date	Description	Change ID
1	May 2011	Numbers realigned due to the removal of the previous section 8 of the Constitution.	
2	December 2011		
3			



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If you require this information in a different format, such as audio tape or in another language, please ask an English speaker to contact Moira Fraser on 01635 519045 who will be able to help.

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8.1 Terms of Rules

Terms used in these Rules have the meaning given to them in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

8.2 Application of Rules

These Rules apply to all meetings of the Council, its Committees, Sub-Committees, Commissions, the Standards Committee, and public meetings of the Executive (together called “meetings”).

8.3 Additional Rights to Information

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

8.4 Rights to Attend Meetings

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

8.5 Notices of Meeting

The Council will normally give at least five clear working days notice of any ordinary meeting by posting details of the meeting at Council Offices, Market Street, Newbury, and on its website.

8.6 Access to Agenda and Reports before the Meeting

The Council will make copies of the agenda and those reports that are available open to the public for inspection at the designated office and on its website at least five clear working days before the meeting. ‘To follow’ reports will be open to inspection from the time the item is published.

8.7 Supply of Copies of Information

The Council will supply copies of:

- any agenda and reports which are open to public inspection on payment of a charge for postage and any other costs;
- any further statements or particulars necessary to indicate the nature of the items in the agenda on payment of a charge for postage and any other costs; and
- if the Head of Policy and Communication thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

8.8 Access to Agendas, Reports and Minutes after the Meeting

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

- the Minutes of the meeting or records of decisions taken, (together with reasons), for all public meetings – excluding any part of the

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Minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- the agenda for the meeting; and
- reports relating to items when the meeting was open to the public.

8.8.2 The Berkshire Records Office

The Berkshire Records Office holds copies of agendas, reports and minutes of Council meetings which are older than six years.

8.9 Background Papers

8.9.1 List of Background Papers

The Head of Policy and Communication will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information (as defined in Rules 8.10.1 (Requirement to Exclude Public) to 8.10.4 (Meaning of Exempt Information) and in respect of Executive reports and the advice of a political advisor.

8.9.2 Public Inspection of Background Papers

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

8.9.3 Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices at Market Street, Newbury.

8.10 Exclusion of Access by the Public to Meetings

8.10.1 Requirement to Exclude Public

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

8.10.2 Meaning of Confidential Information

'Confidential information' means information given to the Council by a Government Department on terms which forbid its public disclosure (for example, documents marked 'restricted' or 'protected' - 'not for public

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disclosure) or information which cannot be publicly disclosed by Court Order.

8.10.3 Exempt Information

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

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

8.10.4 Meaning of Exempt Information

'Exempt information' means information for the time being defined in Section 1001 of the Local Government Act 1972 and specified in Part 1 of Schedule 12A of the Local Government Act 1972 subject to any qualifications contained in Part 2 of the Schedule and as amended by the Local Government (Access to Information) (Variation) Order 2006. The categories of exempt information are set out in the table below:

	Category	Condition (Qualification) (if any)
1.	Information relating to any individual	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.
2.	Information which is likely to reveal the identity of an individual.	Information which: (a) falls within any paragraphs 1 to 7. (b) Is not prevented from being exempt by virtue of Paragraph 8 and 9 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within Paragraph 3 is not exempt information by virtue of that Paragraph if it is required to be registered under: <ul style="list-style-type: none"> • the Companies Act 1985 • the Friendly Societies Act 1974

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	Category	Condition (Qualification) (if any)
		<ul style="list-style-type: none"> • the Friendly Societies Act 1992 • the Industrial and Provident Societies Act 1965 to 1978 • the Building Societies Act 1986 • the Charities Act 1993
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the authority proposes – to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- The Companies Act 1985(1);
- The Friendly Societies Act 1974(2);
- The Friendly Societies Act 1992(3);
- The Industrial and Provident Societies Acts 1965 to 1978(4);
- The Building Societies Act 1986(5); or
- The Charities Act 1993(6).

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

8.10.5 Exclusion of Access by the Public to Reports

If the Head of Policy and Communication thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rules 8.10.1 (Requirement to Exclude Public) to 8.10.4 (Meaning of Exempt Information) the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

April 2007

Part 12

Personnel Rules of Procedure

Document Control

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Version:	1	Date Modified:	
Revision due			
Author:	Moirra Fraser – Democratic Services Manager		
Owning Service	Policy and Communication		

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12.1 Recruitment and Appointment

12.1.1 Recruitment Policy

[The Council's recruitment policy and procedures are set out in the Recruitment and Selection Policy, Procedure and Guidance document . This is available on the Council's HR intranet pages.](#)

Recruitment of staff will be in accordance with the Council's Recruitment Policy which states:

["It is the Council's policy to carry out all recruitment and selection activities to ensure that selection for interview and appointment is based solely on the qualifications, skills, experience and abilities necessary to do the job, and that the Council works towards a workforce which matches, as closely as possible, the demographic make up of the population of West Berkshire."](#)

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12.1.2 Legislation

The Council's recruitment and selection policy and procedures are governed by extensive legislation, [in particular the Equality Act 2010, the Employment Rights Act 1996, and the Immigration, Asylum and Nationality Act 2006.](#)

Deleted: "the Council will recruit from the widest possible field and will appoint on the sole criterion of merit, except where race and gender is a genuine occupational qualification, or there are exceptional circumstances i.e. potential redundancy".

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Deleted: They also reflect the Council's own procedures and Rules set out in Series 2 of the Management Guidance Notes and which supplement the Rules set out here.

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12.1.3 Declarations

These will be considered as follows:

- The Council will require any candidate for appointment as an Officer to state in writing whether they are a relative or partner of an existing Councillor or employee of the Council.

[Note: For the purposes of this paragraph a 'relative' is defined as a person who is related by blood or marriage.]

- A candidate who fails to disclose such a relationship shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice. Every Member and Officer of the Council at senior management level or above shall disclose to the Chief Executive any relationship known to him/her to exist between themselves and any person they know is a candidate for an appointment with the Council.
- No candidate so related to a Member or an Officer will be appointed to the same Service Unit without the authority of the Chief Executive or relevant Corporate Director.

12.1.4 Seeking Support for an Appointment

The following conditions will apply:

- Subject to Rule (c) below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this Rule will be included in any recruitment information.
- Subject to Rule (c) below, no Member will seek support for any person for any appointment with the Council.

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- (c) Nothing in Rule (a) and (b) above will preclude a Member from giving a written reference for a candidate for submission with an application for employment.

12.1.5 Recruitment of Chief Executive, Corporate Directors and Heads of Service

Where the Council proposes to appoint a Chief Executive, Corporate Director or Head of Service, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement specifying:
- (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- (c) make arrangements for a copy of the statement mentioned in (a) to be sent to any person on request.

12.1.6 Appointment of Chief Executive

The full Council will approve the appointment of the Chief Executive following the recommendations of the Appointments Panel. The Appointments Panel will include at least one Member of the Executive.

The full Council may only make or approve the appointment of the Chief Executive where no well-founded objection has been made by any Member of the Executive.

12.1.7 Appointment of Corporate Directors and Heads of Service

Corporate Directors and Heads of Service will be appointed by the Appointments Panel, which will include at least one Member of the Executive.

An offer of employment as a Corporate Director or Head of Service shall only be made where no well-founded objection from any Member of the Executive has been received.

12.1.8 Other Appointments

The following conditions will apply:

- Appointment of Officers below Head of Service (other than assistants to political groups) is the responsibility of the Chief Executive or his/her nominee and may not be made by Members.
- Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

12.2 Disciplinary Action

12.2.1 Suspension

In terms of suspension, it must be noted that:

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- only the Chief Executive has the authority to suspend a Corporate Director;
- only the Chief Executive or a Corporate Director has the authority to suspend a Head of Service;
- only an Officer at Head of Service level or above, or nominated manager where the Head of Service has authorised delegation, has the authority to suspend an employee not covered by (i) and (ii) above;

Members will not be involved in the disciplinary action against any Officer below Head of Service except where such involvement is necessary for any investigation or enquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

12.2.2 Dismissal

Members will not be involved in the dismissal of any Officer below Head of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

12.3 Appointment of Assistants to Political Groups

12.3.1 Number of Posts

The [Local Government and Housing Act 1989](#) enables Councils to create not more than three posts of Assistants to Political Groups.

12.3.2 Rules Relating to Creation of Posts

It also specifies processes that must be included in the Council's Rules relating to the making of appointments to any such posts. These are set out below:

- No such appointment shall be made until the Council has allocated such a post to each political group, which qualifies for one under the Act.
- No such appointment shall be made in respect of any political group, which does not qualify for one under the Act.
- Not more than one post shall be allocated to any political group.
- The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group

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