

Part 4

Rules of Procedure

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Council Procedure Rules (Standing Orders)

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STANDING ORDER NO. 1
Annual Business Meeting

The Annual Business Meeting of the Council will be held each year before the Annual Council Meeting, at a place determined by the Chief Executive after consulting the Mayor and notified in the summons.

The Annual Business Meeting will:

- 1 elect a person to preside if the Mayor is not present¹;
- 2 approve the minutes of the last meeting;
- 3 receive any declarations of interest from members
- 4 receive any announcements from the Mayor and/or Chief Executive;
- 5 at the Annual Council meeting following the local government elections, elect the Leader for a period of four years or until the Leader's term of office as a Councillor ends.
- 6 make recommendations to the Annual Council Meeting as to
 - a review of the representation of different political groups on committees and any other bodies to which the Council has power to make appointments and to which section 15 of the Local Government and Housing Act 1989 applies², and
 - the allocation of seats to political groups in accordance with the political balance rules³, and
 - the appointment of the Scrutiny Forum and Scrutiny Committees, a Standards and Audit Committee, and such other committees⁴ and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution); and
 - appointments of members to committees and any other bodies, except where appointment to any such other body has been delegated by the Council or is exercisable only by the Cabinet.⁵
 - The appointment, directly by the full council⁶, from among the voting members, and subject to the rules in the Constitution about the make-up of certain committees, of a Chair and Vice-Chair of the following committees or sub-committees:
 - Planning Committee
 - Planning Sub-Committee

- Appeals and Regulatory Committee
 - Licensing Committee
 - Employment and General Committee
 - The Scrutiny Forum and Scrutiny Committees
- Any other committee or sub-committee which the council may have decided to appoint.
- 7 agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree. See Part 3.
- 8 approve a programme of ordinary meetings of the Council for the year; and
- 9 consider any business set out in the notice convening the meeting.

STANDING ORDER NO. 2 **Annual Council Meeting**

The Annual Meeting of the Council will be held each year at a place determined by the Chief Executive after consulting the Mayor and notified in the summons, at 5.00 p.m. on the second Wednesday in May. In an election year the meeting will be held on the second Wednesday after the day of the elections⁷.

The annual meeting will:

- 1 elect a person to preside if the Mayor is not present⁸;
- 2 elect the Mayor⁹ and Deputy¹⁰ Mayor;¹¹
- 3 receive any announcements from the Mayor and/or Chief Executive;
- 4 confirm the recommendations of the Annual Business Meeting.

STANDING ORDER NO. 3 **Selection of Councillors for Committees,** **Sub-Committees and Joint Committees**¹²

At the Annual Business Meeting and whenever otherwise necessary the Council meeting will:

- Decide which committees to appoint for the Municipal Year
- Decide the size and terms of reference for those committees
- Decide the allocation of seats to political groups¹³ in accordance with the political balance rules
- Receive nominations of Councillors to serve on each committee and joint committee exercising non-executive functions
- Appoint Members to those committees and joint committees exercising non-executive functions, except where those appointments have been delegated.¹⁴

STANDING ORDER NO. 4
Ordinary Council Meetings

- 4.1 Ordinary meetings of the Council will be held at places determined by the Chief Executive after consulting the Mayor and notified in the summons, on dates determined by the Council.
- 4.2 The order of business shall be:
- (a) in the absence of the Mayor and Deputy Mayor, to appoint a Chair for the meeting;
 - (b) any matter required by statute to be considered before any other matter;
 - (c) to consider the Minutes of the last Council Meeting;
 - (d) to receive the Mayor's communications;
 - (e) to receive any declarations of interest from Members (though a member may declare an interest at any time during the meeting if an interest arises)
 - (f) to receive questions from, and provide answers to, the public in relation to matters which, in the opinion of the person presiding at the meeting, either relate to the powers and duties of the Council or affect the Borough in some way (see Standing Order 12 - Questions from the public)
 - (g) to receive and/ or debate petitions under Standing Order 13
 - (h) under Standing Order No. 19 to receive questions without written notice from members and answers from the Leader on any matter relating to the powers and duties of the council other than those which may be asked under (q) below
 - (i) to report vacancies on the Council;
 - (j) to deal with any business which may be outstanding from the last meeting;
 - (k) to deal with matters specifically required by statute to be dealt with (other than in (b) above);
 - (l) to consider the District Auditor's Annual Audit Letter;.
 - (m) to consider proposals from the Cabinet in relation to the Council's budget and policy framework;

- (n) to consider reports and recommendations from the Cabinet (other than the proposals mentioned at (m) above);
- (o) to consider reports and recommendations from the Scrutiny Forum and Scrutiny Committees and other council committees;
- (p) to receive and note the Minutes of Council Committees' decisions taken under delegated powers and the records of decisions taken by the Cabinet and by Executive Members;
- (q) under Standing Order 15-17 to receive questions without written notice from members and answers from Executive Members and Scrutiny Committee Chairs on any Scrutiny Committee minute or record of Decision of Cabinet or Executive Member referred to in the Minute Book for the meeting at which questions may be asked;.
- (r) under Standing Order No. 19 to receive questions with written notice from members and answers from the Mayor, Leader, Executive Members or Chairs on matters other than those covered under (q) above;
- (s) to receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (t) to consider notices of motion in the order received. Motions submitted by the Mayor shall have priority;
- (u) to consider any other business specified in the summons to the meeting;

4.3 There shall be a time limit of 3 hours on every meeting after which any outstanding business shall be adjourned to the next meeting. This Standing Order may be waived, for urgent business outstanding, under Standing Order 33 by resolution passed by the council having been moved and seconded. The motion will be put without discussion.

4.4 **Effect of Prejudicial Interests**

Where a member has declared a prejudicial interest in any item included in a minute, record of decision or report, the council meeting may consider that minute, record of decision or report separately. The member must withdraw from the council meeting for that item.

This rule applies whether a member's prejudicial interest was recorded in a minute or record of decision, or whether the interest has arisen between the date of the minute or record of decision and the date of the full council meeting. This rule also applies to prejudicial interests recorded in the minutes of the previous council meeting under (c) above.

4.5 Amending the Order of Business

With the exception of (a), (b) and (c) above, the order of business may be changed:-

- (a) at the discretion of the Mayor, or
- (b) by resolution passed by the council having been moved and seconded.

The motion will be put without discussion.

STANDING ORDER NO. 5 **Extraordinary Council Meetings**

The following may request the Chief Executive to convene Extraordinary Council Meetings:

- The Council (by passing a resolution).
- The Mayor.
- The Monitoring Officer.
- Five Members of the Council if they have presented and signed a request to the Mayor and s/he has refused to call a meeting or has failed to do so within seven days of receiving the request.

The meeting will be held at a place determined by the Chief Executive after consulting the Mayor and notified in the summons.

STANDING ORDER NO. 6 **Summons to Council Meetings**

The Chief Executive will give notice to the public of the time and place of Council Meetings in accordance with the Local Government Act 1972 and the Access to Information Procedure Rules.

At least five¹⁵ clear days¹⁶ before each meeting the Chief Executive will send a summons signed by him by post to each Member of the Council or leave it at their usual place of residence.

The summons will give the date, time and place of each meeting and will include:

- any statutory matters to be dealt with;
- any matters which the Chief Executive considers should be dealt with;
- any motions submitted by Members.

STANDING ORDER NO. 7
Chair of Meeting

A member chosen to chair a meeting of the Council in the absence of the Mayor and Deputy Mayor shall have their powers in conducting the meeting.

A member of the Cabinet may not be chosen to Chair the full Council meeting.¹⁷

In these Standing Orders the Chair of the Council Meeting is described as the Mayor.

STANDING ORDER NO. 8
Quorum

The quorum for a Council Meeting is one quarter of the elected members of the Council.

If during a Council Meeting the number of members present falls below the quorum the meeting shall be adjourned.

At the time of the adjournment the Mayor has the authority to fix a date and time for the meeting to be reconvened.

If the Mayor does not do this, any matters not dealt with will be referred to the next ordinary meeting.

STANDING ORDER NO. 9
Right of Public to Attend Council Meetings

The statutory right of the public to attend Council Meetings shall be subject to:

- reasonable accommodation being available;
- the powers to remove exclude or adjourn in Standing Order 26

STANDING ORDER NO. 10
Exclusion of Press and Public

Members of the public and the press may only be excluded from attendance at Council Meetings either in accordance with the Access to Information Rules in Part 4 or under Standing Order No. 9.

STANDING ORDER NO. 11
Minutes of Previous Meeting(s) of the Council

11.1 At ordinary Council Meetings, the Minutes of the previous Meeting shall, if agreed, be signed by the Mayor as a correct record.

The Minutes will not be open to discussion other than on their accuracy.

The signed copies should be kept in a book of loose-leaf pages

- 11.2 It is not necessary, at an Extraordinary Meeting of the Council, for the Minutes of the previous meeting to be presented. They can be presented at the next ordinary meeting¹⁸. *[This rule cannot be suspended]*

STANDING ORDER NO. 12 **Questions from the Public**

With the exception of the Annual and Extraordinary Council Meetings, a period of thirty minutes shall be allocated at each Council Meeting for members of the public to question appropriate members of the Council.

All questions should be received in writing by the Chief Executive at least five working days before the date of the Council Meeting at which they are to be asked, and as soon as practicable after receipt will be entered in a register which shall be open to public inspection.

The Question and the name of the person submitting it shall be included in the Summons.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

No person or organisation may submit more than one question at any council meeting.

Questions shall either relate to the powers and duties of the Council or affect the Borough in some way.

The Mayor will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, the Chief Executive will read the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

After the appropriate Member of the Council has answered the written question put to them, the member of the public who has asked the question shall be allowed to ask one supplementary question of the Member or other appropriate Member. A supplementary question must arise directly out of the original question or the reply. There shall be no discussion on the question by council members.

STANDING ORDER NO. 13 **Petitions to the Council**

Petitions below 1,000 Signatures

A petition presented to the full Council Meeting containing less than 1,000 signatures shall be received without discussion. Receipt of the petition will be recorded in the minutes.

Petitions shall be presented in the order in which notice of them is received by the Council.

Petitions above 1,000 Signatures

The petition organiser, or their representative, shall give notice to Democratic Services of their intention to present the petition at least ten working days before the date of the Council Meeting at which they wish to present it.

Petitions may be presented at any meeting of the Council and be debated, except at the Annual and Extraordinary Council Meetings, Only one petition shall be considered at any meeting. Petitions shall be presented in the order in which notice of them is received by the Council.

The title of the Petition and the name of the person submitting it shall be included in the Summons.

The presentation of a petition by the petition organiser or representative shall be limited to not more than ten minutes.

There will then be an opportunity for questions to be put to the petitioner by Members and/or Officers, followed by a debate.

Each Member will be allowed to speak once during the debate.

The relevant Executive Member or Committee Chair will be allowed a right of reply at the close of the debate.

The petition organiser or representative will then be allowed not more than ten minutes to sum up the petition, or clarify any additional points raised during the debate.

The Council will decide which course of action to take in response to the petition and vote on this at the meeting.

STANDING ORDER NO. 14 **Questions to Executive Leader**

With the exception of the Annual and Extraordinary Council Meetings, a period of thirty minutes shall be allocated at each Council Meeting for members of the Council to ask questions without notice of the Executive Leader of the Council. If the Executive member is unable to reply he may provide a written answer within 3 working days.

No member may submit more than one question at any council meeting. The Mayor shall determine the order in which questions are taken.

Questions shall either relate to the powers and duties of the Council or affect the Borough in some way. Questions which relate to matters for which questions may be

asked under Standing Order No's 15-18 or for which a written question has been received under Standing Order No. 19 shall be excluded.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 15
Questions to Executive Members on delegated matters

Members of the Council may without written notice, ask questions of Executive members on any delegated decision relating to their portfolio which appears in the Minute Book at the meeting at which questions are asked. If the Executive member is unable to reply they may ask another member or an officer to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular record of decision and the Executive Member shall reply to that question before taking any further questions.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 16
Consideration of Cabinet minutes and Cabinet reports requiring approval

Cabinet reports and recommendations shall be presented to the Council by the appropriate Executive Member and/or Chief Executive or other appropriate Officer.

When the recommendations have been moved and seconded, members may ask questions about them. If the Executive Member is unable to reply they may ask another member or an officer to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular minute or report and the Executive Member shall reply to that question before taking any further questions.

After the replies to questions, discussion will be invited.

Members who have asked questions shall not be precluded from discussion.

The mover of the recommendations will then reply or may request another member to reply.

Following the replies to discussion the recommendations in the report or minutes will be put to the vote.

STANDING ORDER NO. 17
Questions to Scrutiny Chairs on delegated matters

Members of the Council may without written notice, ask questions of Scrutiny Chairs on any delegated decision relating to their Committee which appear in the Minute

Book at the meeting at which questions are asked. If the Scrutiny Chair is unable to reply they may ask another member or an officer to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular minute and the Scrutiny Chair shall reply to that question before taking any further questions.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 18
Consideration of Scrutiny minutes and Scrutiny
Committee reports requiring approval

Scrutiny Committee reports and recommendations shall be presented to the Council by the appropriate Scrutiny Chair and/or Chief Executive or other appropriate Officer.

When the recommendations have been moved and seconded, members may ask questions about them. If the Scrutiny Chair is unable to reply they may ask another member to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular minute or report and the Scrutiny Chair shall reply to that question before taking any further questions

After the replies to questions, discussion will be invited.

Members who have asked questions shall not be precluded from discussion.

The mover of the recommendations will then reply or may request another member to reply.

Following the replies to discussion the recommendations in the report or minutes will be put to the vote

STANDING ORDER NO. 19
Questions other than those raised under Standing Order No's 14-18

If at least three working days before the date of the Council meeting notice in writing is given to the Chief Executive,

(a) members may ask the Mayor or an Executive Member any question which is relevant to the Council's powers or duties or which affects the Borough in some way, including questions to Executive Members on portfolio matters not referred to in the Minute Book for the meeting at which the question is to be asked.

(b) members may ask a Committee Chair questions relating to decisions of their Committee which appear in the Minute Book at the meeting at which questions are asked.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 20
Answers to Questions

Answers to questions asked under Standing Orders 14-19 can take any of the following forms:

- Direct oral answers
- If the information sought is contained in a particular publication, a reference to the publication can be given
- A written answer which should be sent to all members

The person of whom a question is asked has the option of not giving an answer.

STANDING ORDER NO. 21
Notices of Motion

All notices of motion should be received in writing by the Chief Executive not later than midday on the 8th working day before the date of the Council Meeting at which they are to be considered.

They should be signed by the member(s) submitting them.

On receipt, they will be date stamped and entered into a book which will be open to inspection by all members of the Council and by the public.

Every motion under this Standing Order must be formally proposed and seconded. If a motion in the summons is not moved and seconded then unless the Council resolves to postpone it, it shall be treated as being withdrawn.

Motions whose subjects fall within the powers and duties of the Cabinet or a Council Committee shall, after being moved and seconded, be automatically referred to the Cabinet or the relevant Council Committee without discussion.

However, the Mayor has the authority to allow them to be dealt with at the Council Meeting if s/he has obtained the consent of the Leader or the Chair of the relevant Committee.

All motions must either relate to the Council's powers and duties or, in some way, affect the Borough.

Any motion which in the opinion of the Chief Executive is illegal, irregular or improper shall be referred to the Mayor for a decision on whether to accept it.

If a submitted motion is similar to one which has been rejected by the Council less than two meetings earlier it will not be included in the summons.

No more than one Notice of Motion shall be considered at any council meeting. Motions shall be considered in the order in which they were received.

There shall be a time limit of 60 minutes for debate of Notices of Motion. If after this time the motion has not been dealt with by way of a vote or other procedural motion it shall immediately be put to the vote without further debate or amendment.

STANDING ORDER NO. 22

Motions and Amendments which may be moved without Written Notice

The following motions and amendments may be moved without written notice:-

- (a) Dealing with routine business.
- (b) To move the approval or otherwise of recommendations of reports to Council
- (c) The position of an item on the agenda.
- (d) The adjournment (apart from the election of Chair) of consideration of any particular business.
- (e) To suspend or waive Standing Orders.
- (f) The referral of an item to the Cabinet or a Committee.
- (g) Permission to withdraw a motion or an amendment.
- (h) To amend a motion on a proposal or a recommendation of a report or minute.
- (i) The exclusion of the public in accordance with Section 100(A)(2) (Confidential Information) or Section 100(A)(4) (Exempt Information) of the Local Government Act, 1972.
- (j) That a member guilty of disorderly conduct under Standing Order No. 25 should not be allowed to speak any further or should leave the meeting.
- (k) That the meeting should proceed to the next business.
- (l) That the question be now voted upon.
- (m) That the debate be adjourned.
- (n) That the meeting be adjourned.

STANDING ORDER NO. 23

Rules of Debate at Council Meetings

23.1 Motions and Amendments

A motion or amendment shall not be discussed until it has been moved, the mover has explained the purpose of the motion/ amendment and it has been seconded.

Motions once moved and seconded can only be withdrawn with the Council's permission under Standing Order No. 22(g) .

23.2 Secunder's Speech

If a member seconding a motion or an amendment wishes to speak on it later in the debate s/he must indicate this at the time s/he seconds it.

23.3 Order of Speaking

The order of speaking shall be determined by the Mayor.

When a member speaks, s/he will stand (if possible) and will address the Mayor.

Whilst a member is speaking, no-one else shall speak unless raising a point of order or giving a personal explanation.

23.4 Length and Content of Speeches

With the exception of the mover of the annual budget motion and the Leaders of the Minority Groups responding to the annual budget motion, no-one shall speak for more than five minutes on any motion unless the Council allows him/her to do so under Standing Order No 22(e).

Members shall confine the content of their speeches to the subject under discussion.

23.5 Member Speaking Again

A member who has already spoken in a debate cannot speak again except to:

- (a) exercise a right of reply
- (b) make a point of order
- (c) give a personal explanation.
- (d) speak on an amendment
- (e) move a further amendment

23.6 Amendments to Motions

- (a) An amendment must be relevant to the motion and must be a proposal:
 - to refer a motion elsewhere
 - to add, replace or leave out words

Amendments to add, replace or leave out words must not negate the motion.

- (b) Unless notice of the amendment has been given, the Mayor may require it to be given to him/her in writing and signed by the mover before it is debated.
- (c) Only one amendment may be moved and debated at any one time. No further amendment may be moved until that amendment has been disposed of.
- (d) After an amendment has been carried the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- (e) If an amendment is carried the motion as amended takes the place of the original motion . This becomes the substantive motion to which any further amendments are moved.
- (f) If an amendment is not carried, any further amendments will be made to the original motion.
- (g) If no further amendments are moved the Council will then vote on the original motion or the amended motion, as the case may be.
- (h) The mover of an amendment must state at the beginning of his/her speech that s/he proposes to put forward an amendment.

23.7 Alteration of Motion

- (a) A member may alter a motion of which he has given notice with the consent of the meeting (The meeting's consent will be signified . without discussion) .

A Member may alter a Motion which he has moved without notice with the consent of both the meeting and seconder. The meeting's consent will be signified without discussion.

- (b) Only alterations which could be made as an amendment may be made.

23.7 (i) Right of Reply- Proposer of Original Motion only

At the end of the debate on the original motion, immediately before it is put to the vote the mover of the original motion has a right of reply

23.7 (ii) Right of Reply- Upon amendment to Motion

The mover of every substantive motion has a right of reply.

If an amendment is moved, the mover of the original Motion shall also have a right of reply at the close of the debate on the amendment, and may not otherwise speak on the amendment.

The mover of the amendment has no right of reply to the debate on his amendment.

When an amendment has been carried and a debate ensues on a further amendment, the right of reply to that further amendment shall be exercisable by the mover of the successful amendment, and not by the mover of the original Motion which it has replaced.

At the end of a debate on an amendment to a motion and immediately before it is put to the vote the mover of the substantive motion (either the original motion or the amended motion) may exercise a right of reply.

This right of reply is confined to answering arguments or objections which have arisen during the debate.

23.8 Motions which may be moved during debate

Whilst a motion is being debated no other motion may be moved except the following procedural motions:

- (a) to amend a motion;
- (b) to withdraw a motion
- (b) to adjourn the meeting;
- (c) to adjourn the debate or meeting;
- (d) to proceed to the next business;
- (e) that the question be now voted upon;
- (f) under Standing Order No. 26 that a member be not allowed to speak any further;
- (g) under Standing Order No. 26 that a member should leave the meeting;
- (h) to exclude the public in accordance with the Access to Information Rules

23.9 Closure Motions

- (a) If, during a debate, it is moved and seconded that the Council should proceed to the next business, and the Mayor thinks the item has been

sufficiently discussed s/he will give the mover of the original motion the right to reply and will then take a vote on the proposal to proceed to the next business.

- (b) If, during a debate, it is moved and seconded that the question be now voted upon, and the Mayor thinks the item has been sufficiently discussed s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion the right to reply before putting the motion to the vote..
- (c) If a motion "to adjourn the debate" or "to adjourn the meeting" is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

23.10 Points of Order

Members can, at any time, raise points of order.

Points of order relate only to alleged breaches of Standing Orders or statutory provisions and members raising them must specify the Standing Order or statutory provision and why they consider they have been broken.

23.11 Personal Explanations

Members can, with the Mayor's permission, give personal explanations on matters referred to by other members.

A personal explanation should be confined to a relevant part of a member's previous speech which may have been misunderstood.

23.12 Mayor's Ruling

The Mayor's ruling on points of order or personal explanations is final.

23.13 Members' Speaking

Members will (if possible) stand whilst speaking. They will address other members and officials by their respective titles.

No-one should stand or speak whilst the Mayor is speaking.

23.14 Officers Speaking

Where any of these Standing Orders refers to an Executive Member or Committee Chair answering a question or entering into discussion, the Executive Member or Committee Chair may invite any officer present at the

meeting to speak also, on any relevant factual matter unless that officer is prevented from speaking because of a conflict of interest.

STANDING ORDER NO. 24

Voting

1 Method of Voting

Unless the law or this Constitution otherwise provides, matters put to the vote will be decided by a simple majority of those Members present in the room at the time when the question is put.

Votes will normally be taken by shows of hands, subject to paragraph 2 below.

2 Record of voting as it takes place (Council meetings only)

Recorded voting during the vote can take place at full Council meetings only, either:

- at the discretion of the Mayor or
- if requested by the mover or seconder of a motion and agreed by not less than six other members

In this case, the Chief Executive will, in turn, call out the name of each member present and s/he will declare his/her vote.

3 Minuted voting after a show of hands (Council meetings and committee meetings)

[This rule cannot be suspended]

At full Council meetings or at council committee or subcommittee meetings, where any member requests it immediately **after** the vote is taken, his or her vote will be so recorded in the minutes to show whether he or she voted for or against the motion or abstained from voting¹

4 Equality of Votes

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

Where, at a meeting, there are equal numbers of votes for and against and the Mayor declines to use his/her casting vote, the motion or amendment will be declared lost and cannot be moved again at the meeting.

¹ This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993

STANDING ORDER NO. 25
Disorderly Conduct at Council Meetings - Members²

If the Mayor considers that a member is misbehaving by either disregarding his/her ruling, acting improperly/ offensively or by wilfully obstructing the meeting, s/he or any other member can move that the member should not be allowed to speak further.

If this motion is seconded it shall be voted upon without discussion.

If the member referred to continues to misbehave, the Mayor can either:

- move that s/he should leave the meeting (this will be voted upon without seconding or discussion)³ or
- adjourn the meeting for whatever period s/he feels is appropriate

In the event of disturbance which the Mayor considers makes it impossible to carry on the meeting, s/he can adjourn the meeting for whatever period s/he feels is appropriate.

STANDING ORDER NO. 26
Disorderly Conduct at Council Meetings - The Public⁴

Existing Disorder

The Mayor may call on any disorderly person or persons to behave properly - if they do not, the Mayor may direct their removal by such force as may be reasonably necessary for expulsion.⁵

² Under Common Law a councillor is present by right of his office and cannot be excluded from a local authority meeting under common law. However the Chair has a common law duty to keep order. If a member persists after warning, the Chair should seek a resolution to adjourn or suspend the meeting. If the Chair can't get a resolution, the Chair has an inherent common law power as chair to **suspend or adjourn** the meeting, but the adjournment must be for no longer than is necessary to restore order (John v Rees 1969).

³ This is not a common law power but a rule approved by the council for the conduct of meetings, so there is a requirement for the Chair to get the meeting's agreement to this course of action.

⁴ ARTICLE 10 EUROPEAN CONVENTION OF HUMAN RIGHTS: says *Everyone has the right to freedom of expression, to hold opinions and impart information and ideas without interference by public authority and regardless of frontiers. But lawful restrictions may be imposed in the interests of national security or public safety, prevention of disorder or crime, protection of health or morals, protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.* The restrictions in this standing order may be in the interests of the prevention of disorder.

⁵ The common law

In the event of disturbance which the Mayor considers makes it impossible to carry on the meeting, s/he can adjourn the meeting for whatever period s/he feels is appropriate.

Anticipated Disorder

The Mayor or any other member can move that members of the public be excluded from attending a meeting in view of the likelihood they would disrupt proceedings.⁶

STANDING ORDER NO. 27 **Quorum and Procedures for Committees of the Council** **(and their Sub-committees)**

Subject to any other rule of law or provision of this Constitution or any decision of the Council, the quorum for Committees of the Council is three members and the quorum for Sub-Committees of those Committees is two members⁷.

Unless the full Council has appointed the Chair and Vice Chair of a committee or sub-committee under Standing Order No. 1, Committees and sub-committees will elect their own Chairs and Vice-Chairs, subject to any rule in the constitution as to voting for and qualification for the office of Chair or Vice-Chair.

If a vacancy occurs in the office of chair or vice chair of any committee or sub-committee during the municipal year, the voting members present at the committee or sub-committee meeting will elect a Chair or Vice-Chair for the remainder of the municipal year, subject to any rule in the constitution as to voting for and qualification for the office of chair or vice-chair.

Voting will be taken by shows of hands.

The chair has a casting vote.

Members can, if they wish, have recorded in the Minutes the way in which they voted on a particular issue. (Mandatory Standing Order under the Local Authorities (Standing Orders) Regulations 1993.)⁸

⁶ This was said to be a common law power in R. v. Brent Health Authority, ex p. Francis and another[1985] Q.B. 8. That case was decided under the 1960 Admission to Meetings Act, and it may also apply to Council and Committee meetings. The basis was that the common law power to exclude the public (see existing disorder above) *did not only have the meaning of excluding people already at a meeting but also its primary meaning of preventing people coming at all. When Parliament passed the Act of 1960 it assumed that if members of the public were admitted they would behave themselves. The purpose for which they were admitted was to enable them to inform themselves of what was going on, not to participate. The habit of members of the public getting their supporters to shout down arguments which they did not wish to hear had become too prevalent and there was a common law power to exclude the public in extreme circumstances of this kind.*

⁷ *R v Swansea BC ex p Elitestone Ltd* confirmed that there need be no more than 2 members in law to constitute a committee or subcommittee.

⁸ *Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his vote for the question or against the question or whether he abstained from voting. In this paragraph "relevant body" means the authority, a committee or sub-committee of the authority or a relevant joint committee or sub-committee of such a committee.*

The Chief Executive, any Executive Director, Service Manager and the Monitoring Officer are each authorised to convene meetings of Council Committees subcommittees certain other bodies and the Cabinet

STANDING ORDER NO. 28
Minutes and Records of Decisions

- The Minutes of Council Committees, sub-committees, joint committees and bodies, and certain working groups (including Joint Staff Consultative Groups and certain Liaison Groups) and
- the Records of Decisions of the Cabinet, Cabinet sub-committees, individual Executive Members, and Officers (making key decisions only)

shall be printed and sent to each member of the Council with the summons for the Council Meeting at which they are to be presented.

STANDING ORDER NO. 29
Attendance Register

Members attending meetings of the Council or its Committees or subcommittees should sign the attendance sheets provided.

STANDING ORDER NO. 30
Employees of the Council

If at any Council Meeting the personnel details of a particular employee or any matter relating to the employee's conduct should arise, the matter shall not be further considered until the Council has considered whether or not the public should be excluded under the Local Government (Access to Information) Act, 1985 and the Human Rights Act 1998.

STANDING ORDER NO. 31
Inspection of Land and Property

Members of the Council should not, unless specifically authorised, issue any orders on behalf of the Council. Subject to any other part of this Constitution, in their individual capacities they have no right to enter on to land or property which the Council might have the right to enter on to.

STANDING ORDER NO. 32
Amendment of Council Procedure Rules

Any motion submitted to the Council (other than one contained in Minutes) which proposes amendments of Standing Orders shall be referred to the next ordinary Council Meeting and will require a notice of motion in accordance with Standing Order No. 21..

STANDING ORDER NO. 33
Suspension of Standing Orders

All of these **Standing Orders** except SO 11.2 and SO 24(3) and may be suspended by motion on notice or without notice. Suspension can only be for the duration of the meeting.

11.2 - No agreement to sign minutes of previous meeting if extraordinary.

24(3) - Right to require and individual vote to be recorded

The suspension or waiving of any Standing Order in these Council Procedure Rules at a Council Meeting will require a majority vote. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

If less than half the members of the Council are present, no motion to suspend or waive Standing Orders will be discussed.⁹

STANDING ORDER NO. 34 **Members' Receipt of Standing Orders**

Members will receive copies of Standing Orders as soon as possible after their election to office.

STANDING ORDER NO. 35 **Interpretation of Standing Orders**

The Mayor's ruling on the interpretation of Standing Orders and on the conduct of the meeting cannot be challenged at Council Meetings.¹⁰

Such Mayor's ruling will have regard to the purposes of this Constitution contained in Article 1

STANDING ORDER NO. 36 **Members' Codes of Conduct and Protocols**

Members (including co-opted members) shall abide by the Chesterfield Borough Council Code of Conduct for Members, the Code of Conduct on Planning Matters, and the Protocol on Member/Officer Relations at Part 5 of this Constitution and any current general advice on conduct matters from the Local Ombudsmen.

In these Procedure Rules where a Executive Member or Committee Chair is prevented from speaking because of an interest under the code of conduct, the Leader, Deputy Leader or another Executive Member may speak in place of that Executive Member, and the Vice Chair or another member of the committee may speak in place of that Committee Chair.

⁹ See Part 4 Article 16 of this Constitution

¹⁰ See Part 2 Article 16 of this Constitution: *The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council.*

NOTES

¹ "person presiding": Normally this will be the chairman elected the previous year who, if present at a meeting of the council, must preside (Sched. 12, para. 5). If he is not present the vice-chairman of the council must preside. If neither are present another member of the council chosen by the members will preside.

² Section 15 of the 1989 act says.—(1) *It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—... (b) where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;*

³ 1989 act s.15(4)... *it shall be the duty of a relevant authority ... (a) in performing their duty under subsection (3) above; ... to determine the allocation to different political groups of seats on a body to which this section applies,*

⁴ These "other committees" are not detailed because they are a matter of choice for the Council, which may from year to year change the number or description of the committees it wishes to appoint. But the Standards and Audit Committee and Scrutiny Panels **are** mentioned here because the Council must appoint these by law.

⁵ 1989 Act s.16(1) *Where any relevant authority... have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority... so to exercise their power to make appointments to that body as to give effect... as soon as practicable after the determination... to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.*

⁶ Knowles on Local Authority Meetings 3rd Ed p.299: *It is for the local authority to decide whether committee chairmen shall be appointed by the full assembly or elected by the committee itself.*

⁷ The annual meeting must be held between 8 and 21 days after the retirement of councillors in an election year, and in March to May in other years – schedule 12 Local Government Act 1972.

⁸ "person presiding": Normally this will be the chairman elected the previous year who, if present at a meeting of the council, must preside (Sched. 12, para. 5). If he is not present the vice-chairman of the council must preside. If neither are present another member of the council chosen by the members will preside.

⁹ Note LGA 1972 s. 3(1A): *A member of the executive of a principal council may not be elected as the chairman of the council.*

¹⁰ Note LGA 1972 s. 5(1A) *A member of the executive of a principal council may not be appointed as the vice-chairman of the council.] -*

¹¹ S.4 LGA 1972: —(1) *The election of the chairman shall be the first business transacted at the annual meeting of a principal council.*

(2) If, apart from section 3(3) above or section 5(2) below, the person presiding at the meeting would have ceased to be a member of the council, he shall not be entitled to vote in the election except in accordance with subsection (3) below.

(3) In the case of an equality of votes the person presiding at the meeting shall give a casting vote in addition to any other vote he may have.

Where the chairman has retired as a councillor he is not entitled to vote in the election of a new chairman unless there is an equality of votes in which case he is required by subs. (3) to give a casting vote.

¹² As a matter of Local Choice the executive arrangements give the Cabinet the power to appoint to outside bodies apart from joint committees – see Part 3 Leader's portfolio R130 - *In connection with both executive and non-executive functions, the appointment of any individual - to any office other than an office in which he is employed by the authority; to any body other than -*

(i) the authority;

(ii) a joint committee of two or more authorities;

to any committee or sub-committee of such a body,

and the revocation of any such appointment (LOCAL CHOICE EXECUTIVE FUNCTION)

¹³ A "Political Group" has the same meaning as in the Local Government (Committees and Political Groups) Regulations 1990. It means two or more councillors who have given written notice of their wish to be treated as a political group, in accordance with those Regulations.

¹⁴ Appointment of committees is a non-delegable function of the full Council to the extent established by case law, which is uncertain with respect to the appointment of committees and sub-committees. *R v Brent LBC ex p. Gladbaum and Wood*, *The Times* 14.12.1989 established that only the full Council could appoint and remove members from committees. The case also said that sub-committees could only be appointed by committees (not directly by the full council). Where the full Council appoints sub-committees, the parent committee should at least confirm the appointments.

¹⁵ Two separate rules apply to notices of council meetings:

LGA 1972 Sched. 12 Part 1 para 4(2) *Three clear days at least before a meeting of a principal council—(a) notice of the time and place of the intended meeting shall be published at the council's offices, and where the meeting is called by members of the council the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; and (b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the proper officer of the council, shall, subject to sub-paragraph (3) below, be left at or sent by post to the usual place of residence of every member of the council.*

LGA 1972 s. 100A(6)(a): *The following provisions shall apply in relation to a meeting of a principal council, that is to say—(a) a public notice of the time and place of the meeting shall be given by posting it at the offices of the council three clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;*

Presumably the second rule (allowing a shorter notice than 3 days to be given) is overridden by the first rule which stipulates 3 clear days at least, with no option for a shorter period of notice.

Also, from 1/10/02 the 3 clear days in the second rule is to become 5 clear days by an amendment of s100A which is made by the Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002. However those regulations do not amend the first rule in Schedule 12. After 1/10/02, the overall effect seems to be that 5 clear days must be given unless the meeting is convened at shorter notice, in which case 3 clear days notice (and no less) must be given for a council meeting.

¹⁶ "Clear days" means **working weekdays**, so Saturdays, Sundays, and statutory and non-statutory holidays do not count. The day on which a decision is made is also excluded in counting the 3 day period. The time is calculated in the same way as for the Access to Information Act.

¹⁷ LGA 1972 Schedule 12 Part 1 paragraph 5(4) *A member of an executive of a principal council may not be chosen to preside under sub-paragraph (3) above.*

¹⁸ Mandatory Standing Order under the Local Authorities (Standing Orders Regulation 1993).