

FOLKESTONE AND HYTHE DISTRICT COUNCIL **CONSTITUTION**

PART 5 - COMMITTEES OF THE COUNCIL: FUNCTIONS, RULES **AND PROCEDURES**

CONTENTS		Page Ref
5.1	Committees of the Council	'Part 5/2'
5.2	Committee Procedure Rules	'Part 5/9'
5.3	Non-Executive Access to Information Procedure Rules	'Part 5/23'

PART 5 – COMMITTEES OF THE COUNCIL, FUNCTIONS RULES AND PROCEDURES

PART 5.1 – COMMITTEES OF THE COUNCIL

1. COMMITTEES

- 1.1 Committees and sub-committees can determine all matters falling within their terms of reference, except for major policy changes or initiatives, which shall be recommended to Council.
- 1.2 Officers' delegated powers are set out in the Scheme of Delegation. In addition, each committee and sub-committee is authorised to delegate to officers such further powers as it thinks fit to facilitate the efficient management of the Council's and committee's business.
- 1.3 The committees of the Council are set out in the following paragraphs.

2. AUDIT AND GOVERNANCE COMMITTEE

2.1 Terms of Reference

2.1.1 Audit and Finance

- a) Review and approve the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.
- b) To consider the Head of Internal Audit's annual report and opinion on the Council's corporate governance arrangements.
- c) To conduct reviews of the effectiveness of the Council's system of internal audit.
- d) Be satisfied that the authority's assurance statement, including the annual governance statement, properly reflects the risk environment and any actions required to improve it.
- e) Approve (but not direct) internal audit's strategy, plan and monitor performance.
- f) Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken, where necessary.
- g) Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements, and seek assurance that action is being taken to mitigate those risks identified.
- h) To make recommendations to Council on Contract Standing Orders.

- i) To make recommendations to Council on the Financial Procedure Rules.
- j) To maintain an overview of the Council's Whistle-blowing Policy.

2.1.2 Standards

To discharge the functions as set out in Part 1, Chapter 7 of the Localism Act 2011 including:

- a) To promote and maintain high standards of conduct by members and co-opted members of Folkestone and Hythe District Council and to make recommendations to Council on improving standards.
- b) To advise and assist parish/town councils, and parish/town councillors, to maintain high standards of conduct and to make recommendations to parish/town councils on improving standards.
- c) To advise the District Council on the adoption of, or revisions to, its Code of Conduct.
- d) To advise, train, or arrange to train, district members, co-opted members and parish/town councillors on matters relating to the Code of Conduct.
- e) To assist the district councillors, co-opted members and parish/town councillors to observe their respective Codes of Conduct.
- f) To monitor and assess the operation and effectiveness for dealing with the Code of Conduct and to review and manage the arrangements for dealing with Code of Conduct complaints.
- g) To advise on local ethical governance protocols and procedures.
- h) To maintain oversight of the District Council's arrangements for dealing with Code of Conduct complaints.
- i) To act as an advisory body in respect of any ethical governance matter.
- j) To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
- k) To receive quarterly reports (or less frequently, if there are no complaints to report), from the Monitoring Officer, on the number and nature of complaints received, and action taken, as a result, in consultation with the Independent Person.
- l) To receive an annual report on the District Council's ethical governance arrangements.
- m) To make recommendations to Council on the appointment of an Independent Person(s) under S28 of the Localism Act 2011.

- n) To grant dispensations pursuant to Section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct where:
- so many members of the decision-making body have Disclosable Pecuniary Interests in a matter, that it would impede the transaction of the business; or
 - without a dispensation, no member of the executive would be able to participate on a particular item of business;
 - without a dispensation, the representation of different political groups, on the body transacting the business, would be so upset as to alter the outcome of any voting on the matter;
 - that the authority considers that the dispensation is in the interests of persons living in the area; or
 - where the committee considers that it is otherwise appropriate to grant a dispensation.

2.1.3 Standards' Hearings

- a) At the request of the Monitoring Officer, to consider whether allegations of breaches of the Code of Conduct for members should be referred for local investigation or other action, although not making any finding of fact at that stage.
- b) To consider the report of the investigating officer.
- c) Where the investigating officer has concluded that there has been a breach of the Code of Conduct, to hear and determine the allegation.
- d) To impose or recommend the imposition of appropriate sanctions, where it finds that there has been a breach of the Code of Conduct.

2.1.4 Miscellaneous Non-Executive Functions

- a) To exercise all the Council's non-executive functions that have not been reserved to full Council or delegated to another committee. These include functions relating to:
- Public rights of way (other than those delegated to the Planning and Licensing Committee), highways and limestone pavements;
 - Health and Safety at Work;
 - Elections;
 - Byelaws;
 - Smoke-free premises;
 - Overview of complaints handling and Ombudsman investigations;

- To authorise maladministration payments, where a chief officer considers it inappropriate to use his/her delegated powers;
 - To determine any appeal against any decision regarding homelessness or housing allocation.
- b) To make recommendations to Council on polling station reviews and the outcome of community governance reviews.

2.1.5 Constitutional Matters

To advise the Council on the adoption, alteration, review or amendment of any part of the Council's Constitution, other than matters relating to the powers of the Leader of the Council to decide the arrangements for the discharge of Cabinet functions, the Members' Allowances' Scheme, the management structure and the register of members.

2.2 Composition

Must be politically balanced.

3. PERSONNEL COMMITTEE

3.1 Terms of Reference

- a) To deal with all matters relating to staff employed by the Council, including determining their terms and conditions of employment or on which they hold office.
- b) To consider and determine applications for discretionary pension payments
- c) To appoint chief officers other than the Head of Paid Service.
- d) To make recommendations to Council on the appointment or dismissal of the Head of Paid Service.
- e) To make recommendations to Council on the dismissal of the Monitoring Officer and Chief Finance Officer.
- f) To dismiss chief officers (other than the Head of Paid Service, the Monitoring Officer and Chief Finance Officer (S151 Officer)) in cases of disciplinary offence.
- g) To decide whether to initiate an investigation, in respect of the Head of Paid Service, which might lead to disciplinary action.
- h) To decide whether to suspend the Head of Paid Service in accordance with the relevant human resources policies.
- i) To make recommendations to Council on any disciplinary action to be taken against the Head of Paid Service.

- j) To be the remuneration committee for the pay of the Head of Paid Service and chief officers, with authority to determine the pay of those officers, provided that in making the determination, the committee shall be advised by an external advisor.
- k) To appoint the external advisor mentioned above.
- l) To determine any appeal regarding disciplinary and employment issues, in accordance with the Council's Human Resources' strategies.

3.2 Composition

Must be politically balanced and must include at least one member of the executive when considering the appointment or dismissal of a chief officer.

4. PLANNING AND LICENSING COMMITTEE

4.1 Terms of Reference

4.1.1 Development Control

To exercise all of the Council's functions, as specified in Schedule 1 of the functions' regulations relating to:

- a) Town and Country Planning;
- b) Trees and hedgerows;
- c) High hedges;
- d) Powers relating to public rights of way contained in the Town and Country Planning Act 1990, namely power to authorise stopping up or diversion of highway footpath or bridleway, and power to extinguish public rights of way over land held for planning purposes.

4.1.2 Licensing

- a) To exercise all the Council's functions, as specified in Schedule 1 of the functions' regulations, relating to licensing and registration.
- b) To exercise the statutory licensing committee functions of the Council.

4.2 Composition

Must be politically balanced. The Licensing Act 2003 requires that the number of members on the committee must not be less than 10 or more than 15.

4.3 Planning and Licensing Codes

- 4.3.1** The terms of reference should be read in conjunction with the planning and licensing codes contained in Part 9 of this Constitution.

4.3.2 The planning and licensing codes contain parts of the rules of procedure of the committee when dealing, respectively, with development control and licensing matters.

5. LICENSING SUB-COMMITTEE (sub-committee of the Planning and Licensing Committee)

5.1 Terms of Reference

- a) To determine, in respect of licences issued under the Licensing Act 2003:
 - Applications for a personal licence to vary designated premises supervisors and for the transfer of a premise licence to interim authorities, if there is a Police objection;
 - Applications for personal licence, with unspent convictions, for provisional statement, to vary premise licence/club premises certificate, if a relevant representation is made.
- b) To determine any other licensing or registration issue, where there is a valid objection.
- c) To determine, in respect of applications issued under the Gambling Act 2005:
 - Applications for a premises licence, where representations have been made and not withdrawn;
 - Applications for variation of a premises licence, where representations have been made and not withdrawn;
 - Applications for transfer, following representations by the Commission;
 - Applications for a provisional statement, where representations have been made and not withdrawn;
 - Reviews of premises' licences.
- d) To decide to give a counter notice under S224 of the Gambling Act 2005.

5.2 Composition

Any three members of the planning and licensing committee may form a sub-committee, to hear a licensing application, under the Licensing Act 2003. A ward member must not hear an application relating to premises in his/her ward.

5.3 Licensing Code

5.3.1 The terms of reference should be read in conjunction with the Licensing Code in Part 9 of this Constitution.

5.3.2 The Licensing Code contains the rules of procedure of the sub-committee.

PART 5.2 – COMMITTEE PROCEDURE RULES

1. APPLICATION OF THESE RULES

- 1.1** These rules apply to all committees and sub-committees of the Council. There are additional rules when a committee is acting in a quasi-judicial capacity. In addition, there are specific rules on public participation at the Planning and Licensing Committee.
- 1.2** These rules apply to the Council's Overview and Scrutiny Committee, subject to the provisions of the Overview and Scrutiny Procedure Rules in Part 7. Where there is a conflict between those rules and the Overview and Scrutiny Procedure Rules, the latter shall prevail.

2. ESTABLISHMENT OF COMMITTEES

- 2.1** At the annual meeting of the Council, the Council will:
- a) Decide which committees to establish for the municipal year;
 - b) Decide the size and terms of reference for those committees;
 - c) Decide the allocation of seats to political groups, in accordance with the political balance rules;
 - d) Receive nominations of councillors to serve on each committee and;
 - e) Appoint to those committees bodies, except where appointment to those bodies has been delegated by the Council.
- 2.2** The number and names of members, independent members and co-optees, appointed to each committee, can be found in Appendix 2 of this Constitution. A diagrammatic representation of the structure of the Council can also be found in that appendix.
- 2.3** The Council may establish additional committees between annual meetings as it sees fit.

3. ESTABLISHMENT OF SUB-COMMITTEES

- 3.1** Committees of the Council may establish sub-committees, with such terms of reference and delegated powers as they consider necessary for the proper discharge of the functions of the committee.
- 3.2** Committees may appoint ordinary and substitute members to sub-committees, in accordance with the rules on political proportionality. Committees may also appoint non-voting co-opted members to sub-Committees.
- 3.3** The details of any sub-committees can be found in Part 5 of this Constitution.

4. CHAIRING COMMITTEES AND SUB-COMMITTEES

4.1 Election of a chairman of a committee

4.1.1 The chairmen of committees (other than the Chairman of the Overview and Scrutiny Committee) will be elected by the Council at the Annual Council Meeting or at the first meeting following a vacancy. The vice-chairmen of committees (other than the Vice-Chairman of the Overview and Scrutiny Committee) will also be elected by the Council in the same way.

4.1.2 If the Council fails to appoint a chairman for any committee, then that committee shall appoint a chairman as the first item of business, at its first meeting, following the Annual Council Meeting.

4.2 Election of a chairman of a sub-committee

Where any committee establishes a sub-committee, the committee shall appoint the chairman of the sub-committee. If a committee fails to appoint a chairman to the sub-committee, then the sub-committee shall appoint a chairman, as the first item of business.

4.3 Absence of chairman at meetings of committees and sub-committees

In the absence of the chairman, the vice-chairman shall preside. In the absence of both the chairman and the vice-chairman, the committee or sub-committee will appoint a chairman for that meeting.

4.4 Removal of chairman from committees and sub-committees

The relevant committee or sub-committee may remove the chairman or vice-chairman of the committee or sub-committee, at any time, by resolution of the committee or sub-committee, on notice of motion moved under Rule 16.

5. SUBSTITUTES

5.1 If a councillor cannot attend a meeting of a committee or sub-committee, a nominated spokesperson, of his/her political group, may (subject to the conditions and restrictions in 5.2 below) nominate a substitute, by written notice to the committee administrator attending the meeting.

5.2 The written notice (including e-mail) of the substitute councillors must be given to the appropriate committee administrator by 4.30pm on the day of the meeting. Failing that, the appropriate committee administrator must be informed before the meeting commences. Once a meeting has been informed of the appointment of a substitute member, the original councillor may not resume membership of the committee until after the conclusion of the meeting.

6. ATTENDANCE OF MEMBERS AT COMMITTEES AND SUB-COMMITTEES

6.1 No right to speak

Any councillor may attend meetings of committees and sub-committees. Subject to 6.2 below, councillors, who are not ordinary members of the committee or sub-committee, may not speak at meetings, unless the chairman of the committee or sub-committee agrees that the councillor concerned may speak, or the councillor has been invited to the committee or sub-committee to speak.

6.2 Motions referred to the committee or sub-committee

A councillor, who has proposed a motion or opposition business which has been referred to a particular committee or sub-committee, shall be given at least three clear working days notice of the meeting, at which the motion will be considered, by the Head of Paid Service. If the councillor attends the meeting but is not a member of that committee or sub-committee, s/he shall have an opportunity to explain the motion to the committee or sub-committee.

7. MEETINGS OF COMMITTEES AND SUB-COMMITTEES

7.1 The meetings of committees and sub-committees shall be organised in accordance with a timetable approved each year by the Council. Dates of meetings may be changed to a date decided by the Chairman, if it is in the interests of the Council's affairs or in the public interest to do so.

7.2 The meetings of committees and sub-committees will:

- a) Elect a person to preside if the chairman and vice-chairman are not present;
- b) Approve the minutes of the last meeting;
- c) Receive any declarations of interest from councillors;
- d) Deal with any business considered by the chairman to be urgent;
- e) Receive any announcements from the chairman, Leader, members of the Cabinet or the Head of Paid Service;
- f) Deal with any relevant business held over from the last meeting; and
- g) Consider any other business specified in the summons to the meeting, including consideration of, and debate on, proposals from the Cabinet, in relation to the Council's Budget and Policy Framework, and reports of the overview and scrutiny committees.

7.3 The order of items (a), (b) and (c) of paragraph 7.2 shall not be varied.

The order of other business may be varied:

- a) At the discretion of the chairman, prior to the meeting;
- b) Or at the meeting, by a resolution passed, on a motion (which need not be in writing), duly moved and seconded, and put without discussion.

7.4 Business not on the agenda may only be considered where:

- a) The Access to Information Procedure Rules have been complied with; and
- b) A member of the committee or sub-committee, or any statutory officer, has requested that an item be placed on the agenda for the meeting, at any time before the start of the meeting, and the committee or sub-committee agrees to the item being included, on the grounds of urgency. The grounds of urgency, and the circumstances giving rise to the request, must be recorded in the minutes of the meeting.

7.5 Late Reports

If there is a requirement to add an agenda item to an agenda, after the statutory deadline for publication, that item may only be considered if the chairman agrees, by virtue of the special circumstances set out either in the report or on the supplemental agenda, that the item should be considered as a matter of urgency and the reason specified in the minutes of the meeting.

8. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Head of Paid Service, in consultation with the chairman, and notified in the summons.

9. CANCELLATION OF MEETINGS

The Head of Paid Service may cancel a meeting of any committee, or sub-committee, before the agenda for the meeting has been issued.

10. SPECIAL MEETINGS OF COMMITTEES

10.1 Calling special meetings

Those listed below may request the Head of Paid Service to call committee or sub-committee meetings, in addition to ordinary scheduled meetings:

- a) The committee or sub-committee, by resolution;
- b) The chairman of the committee or sub-committee;
- c) The Monitoring Officer;
- d) The Chief Finance Officer;

- e) The Head of Paid Service and
- f) At least two, or one quarter of the total number of the voting members of a committee or sub-committee, whichever is greater, if they have signed a requisition presented to the chairman of the committee, or sub-committee, and he/she has refused to call a meeting, or has failed to call a meeting, within five clear working days of the presentation of the requisition.

10.2 Business

Business at special meetings of committees and sub-committees shall be restricted to:

- a) The election of a person to preside if the chairman or vice-chairman is absent;
- b) Any item of business specified by the committee or sub-committee, chairman, or Monitoring Officer, when calling the meeting, or specified in the requisition presented by at least two, or one quarter of the total number of the voting members of a committee or sub-committee, whichever is greater.

11. NOTICE AND AGENDA FOR MEETINGS

The Head of Paid Service will give notice to the public of the time and place of any meeting, in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Head of Paid Service will send an agenda, by post or electronically, to every councillor, or leave it at their usual place of residence. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

12. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the chairman.

13. QUORUM

13.1 The quorum of a meeting will be at least one quarter of its membership and not less than three voting members, whichever is the greater.

13.2 If, after 15 minutes from the advertised time of the start of the meeting, or such other longer period as the chairman may decide, a quorum is not present, the meeting will not take place. The chairman may announce the time and date that the meeting will be convened.

13.3 During any meeting, if the chairman counts the number of councillors present and s/he believes that there is not a quorum present, s/he will declare that a quorum count will take place. If after a period of five minutes there is not a quorum present, then the chairman will announce that the

meeting has ended. The remaining business will be considered at a time and date fixed by the chairman. If s/he does not fix a date, the remaining business will be considered at the next meeting.

14. SPECIAL PROCEDURES FOR PARTICIPATION IN RELATION TO APPLICATIONS AT THE PLANNING AND LICENSING COMMITTEE

14.1 Where the Planning and Licensing Committee is dealing with licensing applications; both applicants and objectors, as well as other relevant consultees, are able to speak about an application during consideration of it. The special procedures relating to licensing meetings can be found in Part 9 of this Constitution.

14.2 Where the Planning and Licensing Committee is dealing with planning applications; applicants and objectors, as well as ward, and parish and town council members, may be able to speak about an application during consideration of it. The special procedures relating to meetings, when considering planning, can be found in Part 9 of this Constitution

15. CONFIDENTIAL BUSINESS

All reports, other documents, information, discussions and proceedings of a committee or sub-committee, which are marked 'Exempt', under Schedule 12A of the Local Government Act 1972, or 'Confidential', must be treated as such by all members of the committee or sub-committee. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential items will be discussed in a part of the committee, or sub-committee, meeting from which the press and public are excluded; and exempt items may be discussed, in a part of the meeting from which the press and public are excluded, if the committee resolves to exclude the press and public.

16. MOTIONS TO REMOVE A CHAIRMAN OR VICE – CHAIRMAN

16.1 A motion to remove a chairman or vice-chairman of a committee, or sub-committee, must be given in writing, signed by the councillor giving the notice and delivered to the Head of Paid Service, not later than 10 clear working days before the date of the meeting.

16.2 Motion set out in agenda

Any motions, under rule 16.1, will be listed on the agenda.

16.3 Eligibility to give notice

Only councillors appointed to the committee, or sub-committee, to which the motion relates, can give written notice under rule 16.1. Substitute members are not eligible to give notice.

17. MOTIONS WITHOUT NOTICE

- 17.1** The following motions may be moved without notice:
- a) To appoint a chairman of the meeting at which the motion is moved;
 - b) In relation to the accuracy of the minutes;
 - c) To change the order of business in the agenda;
 - d) To refer something to an appropriate body or individual;
 - e) To appoint a sub-committee, or councillor, arising from an item on the agenda for the meeting;
 - f) To receive reports, or adoption of recommendations of sub-committees or officers, and any resolutions following from them;
 - g) To withdraw a motion;
 - h) To amend a motion;
 - i) Subject to 17.2 below, to proceed to the next business;
 - j) Subject to 17.2. below, that the question be now put;
 - k) To adjourn a debate;
 - l) To adjourn a meeting;
 - m) To suspend a particular committee procedure rule;
 - n) To exclude the public and press in accordance with the Access to Information Procedure Rules;
 - o) Not to permit the recording and/or broadcast of the proceedings of the meeting;
 - p) To not hear further a councillor named under Rule 23.2, or to exclude them from the meeting, under Rule 23.3; and
 - q) To resolve to request the Head of Paid Service to call a special meeting of the committee or sub-committee.

17.2 The chairman may refuse to accept a motion under i) or j) above if, in his/her opinion, the matter under discussion has not been discussed sufficiently. In doing so he/she must give reasons for the rejection.

18. RULES OF DEBATE

18.1 Moving a motion

The mover of a motion may make a speech in support of his, or her, motion, when moving it. The motion must then be seconded.

18.2 Right to require motion in writing

Unless notice of the motion has already been given under rule 16.1, the Chairman may require it to be written down and handed to him/ her before it is discussed.

18.3 More than one motion moved

Where more than one motion has been moved and seconded, and these are not amendments, the motions shall be taken in the order in which they were moved and seconded.

18.4 Content of speeches

Speeches must be directed to the question under discussion, or to a personal explanation or point of order.

18.5 Amendments to motions

18.5.1 An amendment to a motion must be relevant to the motion and either be:

- a) To refer the matter to an appropriate body, or individual, for consideration or reconsideration;
- b) To leave out words;
- c) To leave out words and insert or add others; or
- d) To insert or add words;

as long as the effect of b) to d) is not to negate the motion.

18.5.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

18.5.3 If an amendment is not carried, other amendments to the original motion may be moved.

18.5.4 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.

18.5.5 After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, the amended motion will be debated before it is put to the vote.

18.6 Alteration of motion

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

- b) A councillor may alter a motion which s/he has moved without notice, with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations which could be made as an amendment may be made.

18.7 Withdrawal of motion

A councillor may withdraw a motion which s/he has moved, with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No councillor may speak on the motion after the mover has asked permission to withdraw it, unless permission is refused.

18.8 Right of reply

The mover of a motion has a right to reply, at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

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

18.9 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- a) To withdraw a motion;
- b) To amend a motion;
- c) To proceed to the next business;
- d) That the question be now put;
- e) To adjourn a debate;
- f) To adjourn a meeting;
- g) To exclude the public and press in accordance with the Access to Information Rules; and
- h) To not hear further a councillor named under Rule 23.2, or to exclude them from the meeting under Rule 23.3.

18.10 Closure motions

18.10.1 A councillor may move, without comment, the following motions at the end of a speech of another councillor:

- a) To proceed to the next business;
- b) That the question be now put;
- c) To adjourn a debate; or
- d) To adjourn a meeting.

18.10.2 If a motion to proceed to next business is seconded and the chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the motion to proceed to next business is carried during the discussion of an item, that item of business falls.

18.10.3 If a motion that the question be now put is seconded and the chairman 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 a right of reply, before putting his/her motion to the vote.

18.10.4 If a motion to adjourn the debate, or to adjourn the meeting, is seconded and the chairman thinks the item has not been sufficiently discussed, and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote, without giving the mover of the original motion the right of reply.

18.11 Point of order

A councillor may raise a point of order at any time. The chairman will hear them immediately. A point of order may only relate to an alleged breach of these Committee Procedure Rules or the law. The councillor must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the chairman, on the matter, will be final.

18.12 Personal explanation

A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor, which may appear to have been misunderstood in the present debate. The ruling of the chairman, on the admissibility of a personal explanation, will be final.

19. VOTING

19.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

19.2 Chairman's casting vote

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

19.3 Show of hands/Automated System

Unless a recorded vote is demanded under Rule 19.4, the chairman will take the vote by show of hands, or automated system, or if there is no dissent, by the affirmation of the meeting.

19.4 Recorded vote

If five councillors, present at the meeting, demand it, the names for and against the motion or amendment, or abstaining from voting, will be taken down in writing and entered into the minutes

19.5 Right to require individual vote to be recorded

Where any councillor requests it, immediately after the vote is taken, their vote will be so recorded, in the minutes, to show whether they voted for or against the motion, or abstained from voting.

19.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person, with the least number of votes, will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

A member, nominated for a position, may speak and vote on the matter, notwithstanding his or her candidature.

20. MINUTES

20.1 Signing the minutes

The chairman will sign the minutes of the proceedings at the next suitable meeting. The chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

20.2 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the chairman put them. They will be published on the Council website.

21. RECORD OF ATTENDANCE

All councillors, present during the whole or part of a meeting, must sign their names on the attendance sheets before the conclusion of every meeting, to assist with the record of attendance.

22. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 5.3 of this Constitution, or Rule 25 (Disturbance by Public).

23. COUNCILLORS' CONDUCT

23.1 Chairman

When the chairman signifies that councillors should stop speaking, any councillor, speaking at the time, must stop. The meeting must be silent.

23.2 Councillor not to be heard further

If a councillor persistently disregards the ruling of the chairman, by behaving improperly or offensively, or deliberately obstructs business, the chairman may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

23.3 Councillor to leave the meeting

If the councillor continues to behave improperly after such a motion is carried, the chairman may move that either the councillor leaves the room, in which the meeting is being held, or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

23.4 General disturbance

If there is a general disturbance, making orderly business impossible, the chairman may adjourn the meeting for as long as s/he thinks necessary.

24. WITHDRAWAL FROM THE MEETING

24.1 A councillor or co-opted member, with a Disclosable Pecuniary Interest in a matter to be considered, or being considered, at a meeting, must withdraw from the meeting room, unless he/she has been granted a dispensation, by the Audit and Governance Committee or the Monitoring Officer (where authorised), to speak only, or to speak and vote on the matter.

24.2 A councillor or co-opted member with an Other Significant Interest in a matter to be considered, or being considered, at a meeting must:

- a) if he/she attends the meeting and subject to sub-paragraph b) below, be in the place reserved for the public in the meeting room;
- b) where the public are allowed to make representations, answer questions or give evidence relating to the business, withdraw to the place in the meeting room reserved for the public, after having made representations, answered questions or given evidence;

unless in either case he/she has been granted a dispensation, by the Audit and Governance Committee or the Monitoring Officer (where authorised), to speak only, or to speak and vote on the matter.

25. DISTURBANCE BY PUBLIC

25.1 Removal of member of the public

If a member of the public interrupts proceedings, the chairman will warn the person concerned. If they continue to interrupt, the chairman will order their removal from the meeting room.

25.2 Clearance of part of meeting room or adjournment

If there is a general disturbance in any part of the meeting room open to the public, the chairman may call for that part to be cleared, or may adjourn the meeting for as long as s/he deems necessary.

26. RECORDING/BROADCAST OF THE MEETING

26.1 While a meeting is open to the public, any person is permitted to report on the meeting. For these purposes, report means filming, photographing or making audio recordings of proceedings at the meeting; using any other means for enabling persons, not present, to see or hear proceedings at the meeting, as it takes place, or later; or reporting or providing commentary on proceedings at the meeting, in writing, or orally, outside or after the meeting.

26.2 Reasonable facilities will be provided to any person who wishes to report on a meeting, subject to the following conditions:-

- a) Prior notification, to the Head of Democratic Services and Law, on the intention to report on a meeting.
- b) Recordings being made in an overt manner that would not disrupt the good order of the meeting. Disruptive behaviour could be any action or activity which disrupts the conduct of meetings or impedes other members of the public from being able to see, hear, or record the proceedings. Examples of disruptive behaviour include, but are not limited to:

- Moving to areas outside those designated for the public without the consent of the Chairman;
 - Oral commentary during a meeting;
 - Excessive noise in recording, or setting up, or re-siting equipment during the debate/discussion;
 - Intrusive lighting and use of flash photography;
 - Asking for people to repeat statements for the purposes of recording.
- c) Attendees being advised, by the Chairman, at the start of the meeting, that it is to be recorded, in order to receive objections from those not wishing to be recorded.
- d) Removing any recording equipment from the meeting room prior to any part of the meeting where the public is excluded.
- e) The Chairman's decision in relation to disruptive behaviour shall be final.

26.3 These rights are subject to the Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

27. SUSPENSION AND AMENDMENT OF COMMITTEE PROCEDURE RULES

27.1 Suspension

All of these Committee Procedure Rules except Rules 5 (Substitutes), 11 (Notice and Agenda for a Meeting), 18 (Rules of Debate), 19 (Voting), 22 (Exclusion of Public), 24 (Withdrawal from the Meeting) and this rule may be suspended by motion on notice, or without notice, if at least one half of the whole number of councillors sitting on the committee or sub-committee are present. Suspension can only be for the duration of the meeting.

27.2 Amendment

Any recommendation or motion, to add to, vary, or revoke these Committee Procedure Rules, must be proposed and seconded and referred to full Council for decision.

PART 5.3 – NON-EXECUTIVE ACCESS TO INFORMATION PROCEDURE RULES

1. ADDITIONAL RIGHTS TO INFORMATION

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

2. RIGHTS TO ATTEND MEETINGS

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

3. NOTICE OF MEETINGS

The Council will give at least 5 clear days notice of any meeting, by posting details of the meeting at the Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY, and on the Council's website.

4. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

4.1 The Council will make copies of the agenda and reports, which are open to the public, available for inspection at the Civic Centre and on the Council's website, at least 5 clear days before the meeting.

4.2 Where the meeting is convened at shorter notice than set out in Rule 3 (notice of meetings), copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

4.3 If an item is added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons or agenda has been sent out, the Head of Paid Service shall make each such report available to the public, as soon as the report is completed and sent to councillors.

5. SUPPLY OF COPIES

The Council will supply:

- a) Copies of any agenda and reports which are open to public inspection;
- b) Copies of any further statements or particulars necessary to indicate the nature of the items on the agenda; and
- c) Where the Head of Paid Service considers it appropriate, 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, including copying and administration costs. All relevant documentation will be available, from the Council's website, free of charge.

6. ACCESS TO DOCUMENTS AFTER MEETINGS

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

- a) The minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- b) 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;
- c) The agenda for the meeting; and
- d) Reports relating to items when the meeting was open to the public.

7. BACKGROUND PAPERS

7.1 Background Papers

The chief officer, responsible for the report, 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:

- a) Disclose any facts or matters on which the report, or an important part of the report, is based; and
- b) Which have been relied on to a material extent in preparing the report but will not include, in such a list, published works or those which disclose exempt or confidential information (as defined in Rule 9).

7.2 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. SUMMARY OF THE PUBLIC'S RIGHTS

- 8.1** Article 3 of this Constitution, in conjunction with these rules, is the written summary of the public's rights to attend meetings, and to inspect and copy documents. These documents will be kept, and be available to the public, at the Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY, and on the Council's website.

9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

9.1 Confidential information – requirement to exclude the 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.

9.2 Meaning of confidential information

Confidential information means information given to the Council, by a Government Department, on terms which forbid its public disclosure; or information which cannot be publicly disclosed because of a court order.

9.3 Exempt information – discretion to exclude the public

9.3.1 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.

9.3.2 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 of the Human Rights Act 1998.

9.4 Meaning of exempt information

Exempt information means information falling within the following categories (defined by Part 1 of Schedule 12A to The Local Government Act 1972, as amended), provided that two conditions are met. The first condition is set out in the second column of the following table:

Category	Condition
1. Information relating to any individual.	Information falling within paragraph 1 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.
2. Information which is likely to reveal the identity of an individual.	Information falling within paragraph 2 is exempt 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) 'Financial or business affairs'	Information falling within paragraph 3 is exempt 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. Information falling within paragraph 3 is not

<p>includes contemplated as well as current activities.</p>	<p>exempt information if it is required to be registered under: The Companies Act (as defined in section 2 of the Companies Act 2006) The Friendly Societies Act 1974 The Friendly Societies Act 1992 The Industrial and Provident Societies Act 1965 to 1978 The Building Societies Act 1986 The Charities Act 1993</p>
<p>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.</p>	<p>Information falling within paragraph 4 is exempt 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. ‘Labour relations matters’ are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act or any dispute about a matter within this paragraph).</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information falling within paragraph 5 is exempt 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.</p>
<p>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.</p>	<p>Information falling within paragraph 6 is exempt 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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information falling within paragraph 7 is exempt 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.</p>

The second condition is that 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.

10. EXCLUDING PUBLIC ACCESS TO REPORTS

The public may be denied access to reports if the Head of Paid Service believes that the report relates to matters which, in accordance with Rule 9, will not be considered in a public meeting. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

11. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

11.1 Material relating to previous business

All councillors will be entitled to inspect any document which is in the possession, or under the control, of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting; a decision made by an individual member; or a decision taken by an officer in the circumstances mentioned in the agreed protocol, unless it contains:

- a) Exempt information, as defined in Rule 9, apart from information falling within categories 3 (except in relation to proposed contracts), 6 and
- b) The advice of a political assistant.

11.2 Timescale

Any document required to be available for inspection, under Rule 11.1, must be made available for inspection, in any event, within 24 hours of the conclusion of the meeting on the decision being made, as the case maybe.

11.3 Material relating to key decisions

All councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees, which relates to any key decision unless Rule 11.1 a) or b) applies.

11.4 Nature of rights

These rights of a councillor are additional to any other right he/she may have. A fuller statement of these rights is set out in the Protocol on Councillor and Officer Relations contained in Part 8 to this Constitution.