

Part 4

RULES OF PROCEDURE

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RULES OF PROCEDURE

MEETINGS

Notes

The following Rules of Procedure apply to all meetings of the Council. Those rules set out in italics also apply to Committees and Sub-Committees unless specifically excluded.

The term 'Chairman' refers to the Chairman of the Council. All other positions of authority are referred to by their full title.

1. DATES OF MEETINGS

The day for holding the annual meeting and any ordinary meetings of the Council, shall be fixed by the Council at the previous annual meeting at which the Council shall approve the Programme of Meetings of the Council.

2. PLACE AND TIME OF MEETINGS

All meetings of the Council shall commence at 6.00 p.m. at the Town Hall, Matlock or at such other time and place as the Chairman shall consider necessary for the satisfactory transaction of business.

3. THE ANNUAL MEETING

At its Annual Meeting, the Council will:

- Elect a Chairman to preside at all future meetings of the Council
- Appoint a Vice-Chairman to deputise in the Chairman's absence
- Elect a Chairman of the District of Derbyshire Dales to act as the Council's civic and ceremonial representative
- Appoint a Deputy of the District of Derbyshire Dales to deputise in the Chairman of the District of Derbyshire Dale's absence
- Receive the announcements of the Leader of the Council
- Approve the Minutes of the last meeting as a correct record
- Establish the structure of Committees and Sub-Committees and review the allocation of seats on Committees with regard to the rules of political proportionality to deal with matters set out in Part 3 of this Constitution
- Appoint Councillors and Substitutes, where appropriate, to Committees
- Elect Councillors to the positions of Chairman and Vice-Chairman of Committees
- Approve a programme of ordinary meetings of the Council and Committees for the year
- Receive and decide upon nominations of councillors to serve on outside bodies
- Receive an Annual report of the Area Community Forums
- Such other business that may be specified in the summons

3.1 **Term of Appointment**

All appointments to Committees and positions of authority, made at the Annual Meeting will be for a term of one year.

3.2 **Allocation of seats on Committees**

In addition to allocating seats on Committees and Sub-Committees according to political balance (in accordance with the Local Government and Housing Act 1989) the Council shall also allocate seats in the same manner for Substitute Councillors, where applicable.

For each Committee or Sub-Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on Committee or Sub-Committee.

3.3 **Substitution**

The rules on substitute members apply to all Council Committees except the Commercial Board. Substitutes may attend meetings, to which this rule applies, in that capacity only:

- (a) to take the place of the ordinary Councillor for whom they are the designated substitute;
- (b) After notifying the Head of Corporate Services by 4.00 p.m. on the day of the meeting, of the name of the absent Councillor and the name of the intended Substitute Councillor
- (c) Absence and substitution shall be for the whole duration of the meeting.

Substitute Councillors will have all the powers and duties of any ordinary Councillor of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4. **BUDGET MEETING**

A meeting of the Council will be held annually to deal solely with items relating to the Council's budget i.e. the Council's Revenue Spending Plans, the Capital Programme and Corporate Plan. The Order of business will be to:

- choose a person to preside if the Chairman and Vice-Chairman are absent
- allow public participation in the form of Public Participation, as detailed in Rule of Procedure 14, on the subject matter(s) identified in the summons.
- receive the minutes of the last meeting as a correct record
- deal with any outstanding business from the last meeting of the Council
- consider any other business specified in the summons of the meeting that relate to the setting of the forthcoming year's budget and associated corporate plan.

5. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with the Programme of Meetings decided at the Annual Meeting. The order of business will be to:

- a. *choose a person to preside if the Chairman and Vice-Chairman are absent*
- b. *deal with any business required by statute to be done before any other business of the Council*
- c. *allow public participation in the form of Public Participation as detailed in paragraph 14.*
- d. *Consider petitions received*
- e. *receive the minutes of the last meeting as a correct record*
- f. *Members to declare any interests relating to the business to be conducted.*
- g. *Receive the announcements of the Leader of the Council*
- h. *receive any announcements from the Chairman of the District of Derbyshire Dales*
- i. *deal with any outstanding business from the last meeting of the Council*
- j. *receive and consider the reports and recommendations of the Council's Committees*
- k. *receive questions asked by Councillors under paragraph 15.2*
- l. *Consider and debate propositions posed by Councillors under paragraph 16*
- m. *Consider any other business specified in the summons of the meeting*

6. VARIATION IN ORDER OF BUSINESS

The order of business at any meeting of the Council (other than business falling at paragraphs 5 a, b and c above) may be varied either at the discretion of the Chairman or by a resolution.

7. EXTRAORDINARY MEETINGS

In addition to Ordinary meetings of the Council, those listed below may request the Head of Corporate Services to call a meeting of the Council -

- (a) the Council by resolution
- (b) the Chairman of the Council
- (c) the Monitoring Officer
- (d) any five Councillors if they have signed a requisition. The requisition must specify the reasons for calling a meeting.

The order of business at Extraordinary meetings will be restricted to a single item of debate identified in the summons plus Question Time on that issue.

8. SPECIAL MEETINGS OF COMMITTEES

In addition to Ordinary meetings of Committees those listed below may request the Head of Corporate Services to call a Special Meeting:

- The Chairman of a Committee
- Any three Councillors if they have signed a requisition. The requisition must specify the reasons for calling a meeting

The summons to the Special Meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

9. **NOTICE AND SUMMONS TO MEETINGS**

The Head of Corporate Services will send a signed summons to every Councillor, at least five clear days before a meeting. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. A notice to inform the public of the time, date, place and business of each meeting will be placed on the notice board at the Town Hall, Matlock within a similar timescale.

10. **CHAIRMAN OF THE COUNCIL**

The role of the Chairman (or Vice-Chairman in his/her absence) will be to:

10.1 **In meetings**

- preserve order at Council meetings
- take care that the proceedings are conducted in a proper manner
- have the discretion to exercise a casting vote in the case of an equality of votes at the Council meeting.
- preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community

10.2 **Generally**

- uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors are able to hold the policy committees and committee Chairmen to account
- promote public involvement in the Council's activities
- be the conscience of the Council

11. **CHAIRMAN OF THE DISTRICT OF DERBYSHIRE DALES**

The role of the Chairman of the District of Derbyshire Dales is:

- As a symbol of the authority
To be the Council's 'ambassador' and to represent the Council at civic functions
- As a symbol of open society
To promote inclusiveness and equality
- As an expression of social cohesion

To act as a link between the Council and the various community bodies and organisations

The Chairman of the District of Derbyshire Dales (or his/her Deputy) will act in accordance with the Protocol on the Management of the Civic Office.

12. **QUORUM**

12.1 **At meetings of the Council**

The quorum of a meeting of the Council will be one quarter of the whole number of Councillors. If, during any meeting the Chairman counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If no date is fixed, then the remaining business will be considered at the next ordinary meeting.

12.2 **At meetings of Committees and Sub-Committees**

Except where authorised by Statute, no business shall be transacted at a meeting of any Committee or Sub-Committee unless at least one third of the whole Councillorship, including co-opted Councillors, are present. In no case shall the quorum of a Committee be less than four Councillors, except for Committees and Sub-Committees with a Membership of 5 or less where the quorum shall be two Councillors.

13. **DURATION OF MEETINGS**

Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for 2½ hours will adjourn immediately. Remaining business will be adjourned to a date to be fixed or to the next ordinary meeting of the Council or Committee.

14. **PUBLIC PARTICIPATION**

Public Participation is an initiative which gives members of the public the opportunity to express their views, ask questions or submit petitions at meetings of the Council and its Committees.

For a petition to be presented to a Council or Committee Meeting, it must:

- Bear the signatures and addresses of at least 10 petitioners, resident in the Derbyshire Dales.
- Relate to a topic that is relevant to the Derbyshire Dales.
- Comply with the detailed rules set out in Article 3 of the Constitution

14.1 **At meetings of the Council**

Members of the public may make a statement, petition or ask questions of the Leader or Chairmen of Committees (except Planning) on any of the Council's

services or issues affecting the District of Derbyshire Dales. Each presentation will be limited to three minutes.

14.2 **At Committee Meetings Except Planning Committee**

Members of the public may make a statement which will be limited to three minutes, present a petition or ask questions of the Committee Chairman on any matter within that Committee's remit of responsibility.

14.3 **At Planning Committees**

Members of the public may make a statement, petition or ask questions relating to planning applications or other agenda items in the non-exempt section of an agenda at meetings where those matters are to be considered, and where the Council is the Local Planning Authority.

14.4 **Procedure**

At meetings of the Council and its Committees

A member of the public may participate and ask a question or make a statement if notice has been given by electronic means, telephone or in writing to the Head of Democratic Services, no later than Midday on the working day prior to the meeting date. Each question or statement must give the name and address of the questioner, the subject matter to which it relates and the identity of the Councillor to whom it is to be put.

At any one meeting no person may submit more than 3 questions and no more than 1 such question may be asked on behalf of one organisation.

Petitions may be considered by an appropriate Committee in accordance with the Council's Scheme set out in Article 3 of the Constitution.

At Planning Committees

- a) Where it has been decided by the Council that a planning application will be dealt with by the Planning Committee, the applicant (or agent) and anyone who has made representations will be notified of the time and date of the Committee meeting.
- b) An agenda listing the items to be discussed at meetings of the Planning Committee and the Local Plan Advisory Group will be posted on the District Council's web site and at the offices of the Town hall, Matlock, 5 clear days before the meeting.
- c) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised by the Committee Chairman (in consultation) in advance of the meeting. On line information points will make that clear in advance of registration to speak.

- d) Anyone wishing to make representations at a meeting must notify the Committee Section before Midday on the working day prior to the relevant meeting. At this time they will be asked to indicate to which item of business their representation relates, whether they are supporting or opposing the proposal and whether they are representing a town or parish council, a local resident or interested party.
- e) Those who indicate that they wish to make representations will be advised of the time that they need to arrive at the meeting venue so that the Committee Clerk can organise the representations and explain the procedure.
- f) Where more than 2 people are making similar representations, the Committee Administrator will seek to minimise duplication, for instance, by establishing if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.
- g) Representations will only be allowed in respect of applications or items which are scheduled for debate at the relevant Committee meeting,
- h) Those making representations will be invited to do so in the following order, after the case officer has introduced any new information received following publication of the agenda and immediately before the relevant item of business is discussed. The following time limits will apply:
- | | |
|--------------------------|-----------|
| Town and Parish Councils | 3 minutes |
| Objectors | 3 minutes |
| Ward Members | 5 minutes |
| Supporters | 3 minutes |
| Agent or Applicant | 5 minutes |
- i) At the Chairman's discretion, the time limits above in point h) may be reduced to keep within the limited one hour per meeting for Public Participation.
- j) After the presentation it will be for the Chairman to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers
- k) The relevant Committee Chairman shall exercise discretion during the meeting to rule out immediately any comments by participants that are not directed to genuine planning considerations.
- l) Those making representations are not allowed to circulate any photos or written material to the Committee.

15. **QUESTIONS BY COUNCILLORS**

15.1 **On Reports of the Policy Committees**

A Councillor may ask the Leader or Chairman of a Committee any question without notice upon an item contained in the report of a Committee, when that item is being received or under consideration by the Council.

The Councillor, to whom a question has been put, may refer an answer to a question to the Vice-Chairman of the suitable policy committee where appropriate.

15.2 **Questions on notice**

A Councillor may only ask a question if either:

- (a) they have given notice in writing or by electronic mail to the Head of Corporate Services no later than 12 Noon on the third working day prior to the meeting. (For example questions for a meeting falling on a Thursday would need to be submitted no later than 12 Noon on the Monday of that week.), or*
- (b) the question relates to urgent business of which notice has not been given but the contents of any such question should be conveyed to the Head of Democratic Services no later than 10.00 a.m. on the day of the meeting.*

At any one meeting no Councillor may submit more than three questions.

15.3 **Questions on notice at full Council**

Subject to Rule 15.2 above, a Councillor may ask a question on any matter in relation to which the Council has powers or duties on which affects the District to:

- the Chairman/the Leader, or
- the Chairman of any Committee or
- the Council's representative on significant partnerships as identified in the schedule of outside bodies.

15.4 **Questions on notice at Committee Meetings**

Subject to Rule 15.2 above, a question may be asked of the Chairman of a Committee, on any matter in relation to that Committee.

15.5 **Response**

An answer in relation to 15.3 and 15.4 above may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Provided that the Councillor to whom a question has been put under 15.3 and 15.4 above:

- may decline to answer
- may refer an answer to the Vice-Chairman of the suitable policy committee where appropriate

15.6 **Record of Questions**

The Head of Corporate Services will enter each question in a book open to public inspection. Rejected questions will include reasons for rejection.

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

15.7 **Supplementary Question**

A Councillor may under rule 15.3 and 15.4 ask one supplementary question of the Councillor to whom the first question was addressed. The supplementary question must arise directly out of the original question or the reply.

16. **PROPOSALS ON NOTICE AT MEETINGS OF THE COUNCIL**

Notice of every proposal (other than a proposal, which, under Order 17 may be moved without notice) shall be given in writing or by electronic mail and signed by the Councillor or Councillors giving the notice, and delivered at least 10 working days before the next meeting of the Council, at the offices of the Head of Corporate Services.

It shall be dated, numbered in the order in which it was received, and entered into a book which shall be open to public inspection.

16.1 **Proposal set out in Summons**

The Head of Corporate Services shall set out in the summons for every meeting of the Council all proposals of which notice has been duly given in the order of which they have been received, unless the Councillor giving such a notice intimated in writing when giving it, that he/she proposed to move it at some later meeting or has since withdrawn it in writing.

16.2 **Proposals not Moved**

If a proposal that is set out in the summons is not moved, either by a Councillor who gave notice thereof, or, by some other Councillor on his/her behalf, shall, unless postponed by consent of the Council, (which shall be signified without discussion), be treated as withdrawn and shall not be moved without fresh notice.

16.3 **Scope of Proposals**

Every proposal shall be relevant to some matter in relation to which the Council has powers or duties, or which affects the District.

16.4 **Alteration of Motion**

A Member may, with the consent of the Council signified without discussion:-

- (a) alter a motion of which s/he has given notice; or
- (b) with the further consent of the seconder alter a motion which s/he has moved if (in either case) the alteration is one which could be made as an amendment thereto

17. **PROPOSALS WHICH MAY BE MOVED WITHOUT NOTICE**

The following proposals may be moved without notice.

- *election of the Chairman of the meeting at which the proposal is made;*
- *proposal in relation to the accuracy of the Minutes;*
- *that an item of business specified in the summons has precedence;*
- *reference to a Committee;*
- *appointment of a Committee or Councillor thereof occasioned by an item mentioned in the summons to the meeting;*
- *receipt of reports or adoption of recommendations of Committees or officers and any consequent resolutions;*
- *leave be given to withdraw a proposal;*
- *amendment to proposals;*
- *“that the Council proceed to next business”;*
- *“that the question be now put”;*
- *“that the debate be now adjourned”;*
- *“that the Council do now adjourn”;*
- *the suspension of a particular council procedure*
- *proposal under Section 100A of the Local Government Act, 1972 to*
- *exclude the public (and press);*
- *that a Councillor named under Order 16 be not further heard or do leave the meeting;*
- *to give consent of the Council where the consent of the Council is required by this Constitution*
- *that the meeting continue beyond 2½ hours in duration.*

18. **RULES OF DEBATE**

18.1 **No speeches until proposal has been seconded**

No speeches may be made after the mover of a motion has moved the proposal and explained the purpose of it until the proposal has been seconded.

The Chairman may require that the proposal is put into writing and handed to the Chairman before it is further discussed or put to the meeting.

18.2 **Secunder’s Speech**

A Councillor when seconding a proposal, or an amendment may reserve his/her speech until a later period of the debate.

18.3 **Only One Councillor to Speak**

A Councillor when speaking shall address the Chairman. If two or more Councillors wish to speak, the Chairman shall call on one to speak, the other or others shall wait until duly called by the Chairman. While a Councillor is speaking the other Councillors shall remain silent unless rising to a point of order or in personal explanation.

18.4 **Content and Length of Speeches**

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

The opening speech by the mover of a proposal or amendment may not exceed seven minutes, except with the consent of the Chairman.

No speech by any other Councillor or by the mover of the proposal winding up the debate shall exceed five minutes except with the consent of the Chairman.

18.5 **When a Councillor may speak again**

A Councillor who has spoken on any proposal shall not speak again whilst it is the subject of debate, except:

- a) to speak once on an amendment proposed by another Councillor*
- b) if the proposal has been amended since he/she last spoke, to move a further amendment to the amended proposal*
- c) if his/her first speech was on an amendment moved by another councillor to speak on the main issue, whether or not the amendment on which he/she spoke was carried*
- d) in exercise of the right of reply*
- e) on a point of Order*
- f) by way of personal explanation, that is to say, an explanation of some material part of a speech which appears in the course of the debate to have been misunderstood.*

18.6 **Amendments**

An amendment should be relevant to the proposal, and shall be either

- a) to refer the matter to the appropriate body for consideration or reconsideration*
- b) to leave out words*
- c) to leave out words and to insert or add others*
- d) to insert or add words*

Provisos

- the negative of a proposal before the council may not be moved by way of an amendment:-*
- any amendment must be pertinent and relevant to the original motion*

Only one amendment may be discussed at any one time and no further amendment shall be moved until discussion upon the amendment is concluded.

If an amendment is lost, other amendments may be moved to the original proposal. If an amendment is carried, the proposal as amended shall take the place of the original proposal and shall become the substantive proposal to which any further amendments shall be moved.

After an amendment has been carried the Chairman shall read out the amended proposal before accepting a further amendment or (if none) putting the substantive proposal to the vote.

18.7 Alteration of Proposal

A Councillor may, with the consent of the meeting, signified without discussion

- a) alter a proposal of which he/she has given notice; or*
- b) with the further consent of the seconder alter a proposal which he/she has moved*
- c) only alterations which could be made as an amendment may be made*

18.8 Withdrawal of Proposal

A proposal or an amendment may be withdrawn by the mover with the consent of the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the proposal after the mover has asked permission to withdraw it unless such permission shall have been refused.

18.9 Right of Reply

- (a) The mover of a proposal has a right to reply at the end of the debate on the proposal, immediately before it is put to the vote*
- (b) If an amendment is moved, the mover of the original proposal has the right to reply at the close of the debate on the amendment but shall not otherwise speak on the amendment.*
- (c) The mover of the amendment has no right of reply to the debate on his/her amendment.*

18.10 Proposals which may be moved during debate

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

- to amend a proposal*
- to adjourn a meeting*
- to adjourn debate*
- to proceed with the next business*
- that the question be now put*
- that a Councillor be not further heard*
- by the Chairman that a Councillor do leave the meeting*
- a proposal under Section 100A of the Local Government Act 1972, to exclude the public*
- a proposal that the meeting continue beyond 2 ½ hours in duration*
- during discussion on a planning application that the debate be adjourned for a site visit and if such a proposal is duly carried then any other proposal under debate shall be deemed to have been withdrawn*

18.11 **Closure Proposals**

A Councillor may move without comment, at the conclusion of a speech of another Councillor

- (a) that the Council proceed to the next business*
- (b) that the question be now put*
- (c) that the debate be now adjourned or*
- (d) that the Council do now adjourn*

on the seconding of which the Chairman shall proceed as follows:

- (a) If a proposal to proceed to the next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original proposal a right of reply and then put the procedural proposal to the vote*
- (b) If a proposal that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.*
- (c) If a proposal to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonable be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original proposition the right of reply.*

18.12 **Point of Order**

A Councillor may raise a point of order at any time and be heard immediately. A point of order may only relate to an alleged breach of the Council's Rules of Procedure or the law. The Councillor must indicate the rule of law which he/she considers has been broken. The ruling of the Chairman on the matter will be final.

19. **VOTING**

The Chairman shall take the votes in one of the following ways:

- (a) by show of hand, or*
- (b) by ballot, or*
- (c) 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 proposal, or abstained from voting.*
- (d) If two Councillors present at a meeting demand it, the names for and against a proposal or amendment or abstaining from voting will be taken down in writing and entered in the Minutes. A demand for a recorded vote will override a demand for a ballot.*
- (e) The names for and against a proposal, or amendment or abstaining from voting will be taken down in writing and entered in the Minutes whenever the Council makes a decision to agree the budget, sets the Council tax and precepts*

19.1 **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors 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 may exercise a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote, save that if no second or casting vote is made, the proposal will automatically fail.

19.3 **Exception**

In the event of an equality of votes for the election of Chairman at the Annual Meeting the person presiding must exercise a casting vote.

19.4 **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.

20. **MINUTES**

20.1 **Form**

- *All proposals and amendments in the exact form and order that were put by the Chairman shall be recorded in the Minutes of that meeting.*
- *The Minutes will record the nature of all declarations of interests made by Members.*

20.2 **Approval**

The Chairman will propose that the Minutes of the previous meeting be approved as a correct record. No discussion shall take place on the Minutes except for their accuracy. Any question of their accuracy shall be raised by way of a proposal. If no such question is raised, or if it is raised, then as soon as it is disposed of, the Chairman will sign the Minutes.

20.3 **Record of attendance**

The names of all Councillors present during the whole or part of a meeting will be included in the Minutes of that meeting.

21. **EXCLUSION OF THE PUBLIC AND PRESS**

Members of the public and press may only be excluded either in accordance with Rule 10 of the Access to Information Rules in, Part 4 of this Constitution, or paragraph 23 of Part 4 of this Constitution.

22. **COUNCILLORS' CONDUCT**

22.1 **Disclosable Pecuniary Interests**

A Member who has, or has disclosed, a Disclosable pecuniary interest, must leave the room during the relevant item of business

22.2 **Speaking**

When a Councillor speaks they must address the meeting through the Chairman.

22.3 **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 propose that the Councillor be not heard further. If seconded, the motion will be voted upon without discussion.

22.4 **Councillor to leave the meeting**

If the Councillor continues to behave improperly after such a proposal is carried, the Chairman may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

22.5 **General Disturbance**

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

23. **DISTURBANCE BY THE PUBLIC**

23.1 **Removal of a 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.

24. **RESCISSION OF PRECEDING DECISION**

A decision of the Council shall not be subject of a proposal for reversal within six months of the Council meeting at which it was made.

Provided that:

- (1) This Order shall not apply where notice of a proposal to reverse the preceding resolution within the period bears the names of at least ten Councillors of the Council.

- (2) When any proposal under proviso (1) above has been disposed of by the Council it shall not be open to any Councillor to propose a similar proposal within a further period of six months.

25. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

25.1 **Suspension**

All of these Council Rules of Procedure, except those made mandatory, by Regulation, may be suspended by motion on notice or without notice, if at least one half of the whole number of councillors on the Council are present. Suspension can only be for the duration of the meeting.

25.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

Access to Information Procedure Rules

1. EXEMPT INFORMATION AND REPORT WRITING

A. Introduction

The Council is committed to striking the proper balance between openness and individual legal rights to privacy, and will:

- Promote transparency in its work
- Be proactive in making available information which is public in nature or interest
- Be open and accountable
- Maintain individual privacy and confidentiality in an appropriate manner
- Share information in accordance with information sharing protocols.

B. Changes to Access to Information legislation

On March 1st 2006, Schedule 12A of the Local Government Act 1972 (the Act) is amended. These regulations have been brought in to take account of the impact of the Freedom of Information Act 2000. There are seven categories of information that can be exempt and three additional ones that are applicable to Standards Committees and Sub-Committees only. **All of them require consideration of the public interest before deciding whether to withhold the information.**

C. The presumption of open governance

The approach is based on open governance with disclosure of as much information as possible about decision making. Only in the limited circumstances allowed by statute may information be withheld.

D. Preliminary considerations

Start from the point that the report will be a report open to the public.

If there is information that you think should be withheld, establish if any one of the exemption categories applies. If any do, then consider the public interest test.

E. What are the exemption categories?

Schedule 12A is in three parts:

- Part 1 - Descriptions of Exempt Information
- Part 2 – Qualification
- Part 3 - Interpretation

The descriptions, qualifications and notes on the interpretation are to be found in paragraph 11.4 of part 4 of the Constitution.

F. Background Papers

The rules on background papers require that if they are stated in the report as such then they must be made available to the Public for 4 years after the date of the report. Should the background papers that you wish to use contain exempt information then you should seek advice from the Head of Corporate Services at the earliest opportunity. **Once again you must start from the position that the information should be made available to the public.** You must go through the same process as outlined below. In a case where an exemption is applicable to background papers then these should not be quoted on the report.

G. What is the public interest test?

Information 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.

H. What is the public interest?

There is no legal definition of what the public interest is however the following are relevant considerations to weigh up and balance the public interest in disclosure as against non-disclosure:

- The information in question would assist public understanding of an issue that is subject to current national debate
- The issue has generated public or parliamentary debate
- Proper debate cannot take place without wide availability of all the relevant information
- The issue affects a wide range of individuals or companies
- The public interest in sufficient information being available for local interests to be represented effectively
- Facts and analysis behind major policy decisions
- Knowing reasons for decisions
- Accountability for proceeds of sale of assets in public ownership
- Openness and accountability for tender processes and prices
- Public interest in public bodies obtaining value for money
- Public health
- Damage to the environment
- Contingency plans in an emergency

I. What considerations are there for the report writer of a potentially exempt report?

Once the report writer has formed the opinion that the report or background papers contains potentially exempt information that falls within one or more exemption categories, the following steps should be taken:

1. Establish which of the Exemption paragraphs in schedule 12A you believe apply
2. Apply the public interest test.

3. Seek any necessary advice from the Head of Corporate Services at an early stage.
4. You will need to fill in the sections of the main report marking the report “NOT FOR PUBLICATION – Exempt information as described in paragraph X (complete as relevant) of Schedule 12A of the Local Government Act 1972”
5. You will then need to ensure that the reasons for the use of any and all exemptions you seek to apply are in the public interest is documented in the “Public Interest Test” section of the report. (Some examples are included in the main guidance in order to provide illustrations and make clear how rigorously this test should be applied.
6. Get the approval of the appropriate Proper Officer

J. Who decides whether something is exempt or not?

Only the Chief Executive, Corporate Director and Heads of Service (Proper Officers) may authorise a report to be marked ‘Not for Publication’.

The Committee will consider whether to treat the information contained in the report as exempt or not. If it accepts the Officer considerations on exemption, as detailed in the Officer’s report, it will resolve to exclude the public from the meeting for the consideration of the exempt information.

K. There is a separate class of information called 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 by Court Order.

Seek guidance from the Head of Corporate Services if you consider any information falls within this class of information. Such circumstances are extremely rare.

2. SCOPE

These rules apply to all meetings of the Council, Area Community Forums, Policy and other Committees (together called meetings).

3. ADDITIONAL RIGHTS TO INFORMATION

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

4. RIGHTS TO ATTEND MEETINGS

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

5. **NOTICES OF MEETINGS**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Matlock and on the Council's Website (address www.derbyshiredales.gov.uk)

6. **ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the Town Hall, Matlock at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item is added to the agenda.

7. **SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Corporate Services thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

The information will be made available free of charge in alternative formats on request.

8. **ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following 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.

9. **BACKGROUND PAPERS**

9.1 **List of Background Papers**

The Proper Officer 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 does not include published works or those which disclose exempt or confidential information (as defined in Rule 11).

9.2 **Public inspection of background papers**

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

10. **SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the Town Hall, Matlock.

11. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

11.1 **Confidential information – requirement to exclude public**

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

11.2 **Exempt information – discretion to exclude public**

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 information not in the public's interest would be disclosed.

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

11.3 **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 by Court Order.

11.4 Meaning of exempt information

Revised Schedule 12A from 1st March 2006

Description of exempt information	Qualification	Notes
	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	Applies to all categories of otherwise exempt information
1. Information relating to any individual	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	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.
2. Information which is likely to reveal the identity of an individual	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	Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>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</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993 	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>Financial or business affairs includes contemplated, as well as past or current activities</p> <p>Registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act)</p>

Description of exempt information	Qualification	Notes
<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>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</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p> <p>Employee means a person employed under a contract of service</p> <p>Labour relations matter means :-</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218 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</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>(applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>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</p>	<p>Privilege lies with the "client" which broadly is the council. Seek the view of the relevant Corporate Director whether they wish to waive privilege.</p>

Description of exempt information	Qualification	Notes
<p>6. Information which reveals that the authority proposes -</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment</p>	<p>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</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined (etc)</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>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</p>	
<p>7a. Information which is subject to any obligation of confidentiality.</p>	<p>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</p>	<p>This will not apply to all the papers before a Standards Committee but is likely to need careful consideration in the circumstances of a Local Investigation or Determination.</p>
<p>Description for Standards Committee ONLY (in addition to paras 1 – 7 above)</p>	<p>Qualification</p>	<p>Notes</p>
<p>7b. Information which relates in</p>	<p>Exempt information if and so long as in all the circumstances of the</p>	

any way to matters concerning national security.	case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information	
7c. The deliberation of a standards committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	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	This will apply in relation to Local Determinations whether the original report came from an Ethical Standards Officer or from a Local Investigator.

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication". The Agenda will identify the reason(s) why the information could not be disclosed and the report will consider the public's interest in the matter to be considered and the reason for exemption.

Budget and Policy Framework Procedure Rules

1. The framework for decision making

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Council and Policy Committees to implement it.

2. Process for developing the framework

The process by which the Budget and Policy Framework shall be developed is:

In each year the Council will publish a programme for establishing the Budget and Policy Framework for the following year.

3. In-Year changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Policy Committees, the Regulatory Committees or officers with delegated authority must be in line with it. No changes to any policy and strategy, which make up the Policy Framework, may be made by the Policy Committees, or officers with delegated authority except changes:

- a. necessary to ensure compliance with the law, ministerial direction or government guidance.
- b. which will result in the closure, discontinuance of a service or part of a service to meet a budgetary constraint.

Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

- i. The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- ii. No candidate so related to a councillor or officer will be appointed without the authority of the Chief Executive, Corporate Director and relevant Service Head or an officer nominated by him/her.

(b) Seeking support for appointment.

- i. Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii. Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Head of Paid Service and Corporate Director

Where the Council proposes to appoint a Corporate Director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

- i. the duties of the officer concerned; and
- ii. any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. Appointment of Head of Paid Service

The Council will appoint the Head of Paid Service.

4. Appointment of Corporate Director.

A committee or sub-committee of the Council will appoint the Corporate Director.

5. Other appointments

- (a) **Officers below Corporate Director.** Appointment of officers below Corporate Director (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. Disciplinary action

Procedure

- (i) In the following paragraphs:
 - (a) “the 2011 Act” means the Localism Act 2011
 - (b) “chief finance Officer, “disciplinary action, “head of paid service” and “ monitoring officer” have the same meaning as in Regulation 2 of the local Authorities (Standing Orders) (England) Regulations 2001
 - (c) “independent person” means a person appointed under section 29(7) of the 2011 Act
 - (d) “local government elector” means a person registered as a local government elector in the register of elector in the authority’s area in accordance with the Representation of the People Acts;
 - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - (f) “relevant meeting means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - (g) “relevant officer” means the chief finance officer, head of paid service or monitoring officer, as the case may be.
- (ii) A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- (iii) The Council must convene a Disciplinary Panel and invite the relevant Independent Persons to be considered for appointment to the Panel with a view to appointing at least two persons to the Panel.
- (iv) The Council must appoint to the Panel at least two such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph (iii) in accordance with the following priority order:
 - a. A relevant Independent Person who has been appointed by the council and who lives in the Council’s area
 - b. Any other relevant Independent Person who has been appointed by the Council but who lives outside the authority’s area
 - c. A relevant Independent Person who has been appointed by another authority

- (v) The Council must appoint a Panel at least 20 working days before the relevant meeting
- (vi) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal (which decision must be made by Council itself), the Council must take into account:
 - a. Any advice, views or recommendations of the Panel;
 - b. The conclusions of any investigations into the proposed dismissal; and
 - c. Any representations from the officer subject to the disciplinary proceedings

7. **Dismissal**

Councillors will not be involved in the dismissal of any officer below Corporate Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, and related procedures, as adopted from time to time allow a right of appeal to members in respect of dismissals.