

STANDARDS COMMITTEE

DATE OF MEETING: 20 AUGUST 2015

**TITLE OF REPORT: HART DISTRICT COUNCIL CONSTITUTION:
PROPOSED PRACTICE NOTE FOR APPOINTMENT
OF SUBSTITUTE MEMBERS OF COMMITTEES AND
SUB-COMMITTEES, AND PROPOSED SCHEMES FOR
PUBLIC QUESTION TIME, AND PETITIONS**

Report of: Monitoring Officer

1 PURPOSE OF REPORT

1.1 To recommend to Council the adoption of a proposed Practice Note for appointment of substitute members of committees and sub-committees, and proposed Schemes for public question time and petitions.

2 OFFICER RECOMMENDATION

2.1 Council be recommended to ADOPT the proposed:

- 1 Practice Note - Appointment of Substitute Members of Committees and Sub-Committees as set out in Appendix 1b
- 2 Council's Scheme for Public Questions as set out in Appendix 2b
- 3 Petitions Scheme as set out in Appendix 3b.

3 BACKGROUND

3.1 Part 4.1 of the Hart District Council Constitution sets out Council Procedure Rules (Standing Orders). The purpose of these Rules is to deal with the operation, procedures and practices related to Council, Executive and other meetings. These rules include both statutory requirements and locally agreed procedures. Although the Rules should only be changed in exceptional circumstances, it is good practice to keep their operation under review. This is because it is important to ensure that there is no confusion about the way agreed procedures are operated and to ensure that they are not used for anything other than their intended purposes. In such cases, rather than change the Constitution, good practice is to agree Practice Notes or individual Schemes of Operation to give clarification as to how the Rules are to be interpreted or operated. It is important however, to ensure that whatever Practice Notes or Schemes of Operation are agreed, they should not seek to materially alter what is expressly allowed by the Constitution itself.

4 CONSIDERATIONS

4.1 Attached as Appendices 1a, 2a, and 3a are what is actually set out in the Constitution. **No** change is proposed to the Articles of the Constitution itself.

Attached as Appendices 1b, 2b and 3b are the proposals:

1b Proposed Practice Note - Appointment of Substitute Members of Committees and Sub-Committees

2b Proposed Council's Scheme for Public Questions

3b Proposed Hart District Council's Petitions Scheme

4.2 Practice Note for appointment of substitute Members of Committees and sub-Committees as set out in Appendix 1b

Appendix 1b represents a recommended proposed Practice Note that seeks to give clarification as to how the substitution of Members of Committees and sub Committees will work in practice. It better reflects current practice.

4.3 Scheme for Public Question Time as set out in Appendix 2b

Appendix 2b deals with the operation of Public Questions at Council. The Council welcomes questions from the public but more recently it has become clear that the nature, number and length of the questions being put to Council are not appropriate for that forum. The purpose of Public Questions is for members of the public to seek information. It was never intended to be used as a platform to further a particular point of view. Furthermore, questions should be clear and concise and framed to genuinely elicit information rather than to make a statement. In some instances, this may require the Chief Executive to bring the question into proper form and to secure reasonable brevity. In other instances, it may be more appropriate for the question to be directed to Officers for a direct written response if the question can be most appropriately handled in that way. This may happen where, for example, it is felt that the question requires an in depth technical answer, or is unreasonably excessive because of its length or its number of parts. It is also unlikely that questions will be found acceptable where they relate to matters that are the subject of current or contemplated consultation exercises. The proper way to deal with such matters is to participate in the consultation exercise and not to air preconceived views prematurely.

4.4 Scheme for Petitions as set out in Appendix 3b

Appendix 3b recommends a Scheme as to how the Council should deal with petitions. This is intended for clarification purpose only. Although the Council's Constitution refers at Paragraph 13.4 to petitions being dealt with in accordance with a "*process set out in Appendix 2*" all it refers to is a flow diagram without any real context or explanation as to what is or what is not a petition. The flow chart then itself becomes difficult to follow unless one has an experienced eye as to how a Council functions.

5 FINANCIAL IMPLICATIONS

There are no financial implications arising from the recommendations as set out in this report. Indeed, the clarifications given in both the practice note and the two proposed schemes of operation will reduce much otherwise abortive work.

6 ACTION

Standards Committee is recommended to support the proposals as set out in Appendices 1b, 2b, and 3b and to recommend adoption by Council.

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APPENDICES

Appendix 1a-b - Appointment of Substitute Members of Committees and Sub-Committees

Appendix 2a-b - Public Question Time / Council's Scheme for Public Questions

Appendix 3a-b - Petitions / Hart District Council's Petition Scheme

BACKGROUND PAPERS: Hart District Council Constitution

APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

Extract from Hart District Council Constitution – NO CHANGE PROPOSED

“Substitution by “Resign and Replace”¹²

- 6.1 Political proportionality must be maintained³
- 6.2 The Councillor being nominated by the Group Leader (or his designated deputy) as the substitute must be eligible to sit on the committee concerned⁴. Each of the Councillors affected shall be deemed to have agreed to the substitution.
- 6.3 Wherever possible a Member substituted into the Planning Committee or the Licensing Committee should have received the necessary training. To this end, Group Leaders should maintain a list of suitably trained Members for the two committees.
- 6.4 Substitutions must occur no later than thirty minutes prior to the meeting of Committee concerned; and at that meeting substituted Members should announce themselves for the benefit of any public present.”

¹ Members are appointed to Committees in the normal way. However, if a Member cannot attend a particular Committee Meeting (or series of meetings) then he may resign from that Committee, and the relevant Political Group Leader can nominate a replacement member. The Chief Executive has the delegated authority to accept the resignation and to appoint the replacement Member (and then vice versa after the period of replacement has ended).

² Please refer to Appendix I for a note as to how Resign and Replace is likely to work in practice

³ e.g. a Group can only substitute a Councillor from the same Group

⁴ i.e. a Cabinet Member cannot sit on an Overview and Scrutiny Committee.

PROPOSED Practice Note

Appointment of Substitute Members of Committees and Sub-Committees

The purpose of this Practice Note is to provide guidance to Members, Officers, and the public on how substitutions to Committees of the Council will operate. It is intended to be read alongside, and to be complementary to, Council Procedure Rule 6 (Appointments of substitute Members of Committees and sub-Committees) as set out in the Hart District Council Constitution. If there is any conflict between the two, then Council Procedure Rule 6 shall take precedence.

- Each Group Leader will notify Committee Services those members for each committee who are authorised by their Group as substitutes in case of need.
- A committee member who cannot attend a meeting will identify an authorised substitute.
- The committee member will notify Committee Services with a copy to the substitute and their Group Leader that the substitute will attend in his place. This must be done no later than thirty minutes prior to the meeting of Committee concerned.
- The substitution will be for one meeting only. Once the substitution has been notified, the original committee member will be unable to attend as a committee member, and the rights and duties of the committee member will fall to the substitute for the scope of that single meeting.
- The substitute member cannot carry out the role of Chairman or Vice Chairman of the committee.
- If a permanent or longer-term replacement of a Committee member is required, this will be confirmed in writing by the Group Leader.

How to contact Committee Services

Email: committeeservices@hart.gov.uk

Write: Committee Services, Hart District Council, Harlington Way, Fleet, GU51 4AE

PUBLIC QUESTION TIME

Extract from Hart District Council Constitution – NO CHANGE PROPOSED

“12. PUBLIC QUESTION TIME

General

- 12.1 Members of the public may ask questions of the Leader, Members of the Executive or any Chairman of a Committee at ordinary meetings of the Council in accordance with the Council’s scheme for public questions.

Order of questions

- 12.2 Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

Notice of questions

- 12.3 A question may only be asked if notice has been given by delivering it in writing to the Chief Executive no later than midday five days before the day of the meeting. Each question must give the name and address of the questioner.

Scope of questions

- 12.4 The Chief Executive may reject a question if it:
- 12.4.1 is not about a matter for which the local authority has a responsibility or which affects the District
 - 12.4.2 is defamatory, frivolous, vexatious, or offensive
 - 12.4.3 is substantially the same as a question which has been put at a meeting of the Council in the past six months
 - 12.4.4 requires the disclosure of confidential or exempt information.

Members Questions (Public Question Time)

- 12.5 Subject to the consent of the Chairman, Members may ask questions or make comments on matters raised during public question time.

Record of questions

- 12.6 The Chief Executive will note each question and make a record available to the public including those questions rejected under Rule No. 12.4, unless contrary to public policy.
- 12.7 Copies of the questions accepted will be circulated to all Members and will be made available to the public attending the meeting.

Asking the question at the meeting

- 12.8 The Chairman will invite the questioner to put his question. If a questioner who has submitted a written question is unable to be present, he may ask the Chairman to put the question on his behalf. The Chairman in asking the question on the questioner's behalf may indicate that a written reply will be given.

Time Limits

- 12.9 The time allowed for each question shall be 2 minutes.
- 12.10 The time allowed for each answer shall be 2 minutes.
- 12.11 The total time allowed for both questions and answers shall be 20 minutes. This limit may be extended at the discretion of the Chairman.

Supplementary question

- 12.12 A questioner who has put a question in person may, without notice, also put one supplementary question to the Member who has replied to his original question. The supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 12.4.

Written answers

- 12.13 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer."

PROPOSED

Council's Scheme for Public Questions

The purpose of this Scheme for Public Questions is to provide guidance to Members, Officers, and the public on how questions at Council meetings will be dealt with. It is intended to be read alongside, and to be complementary to, Council Procedure Rule 12 (Public Question Time) as set out in the Hart District Council Constitution. If there is any conflict between the two, then Council Procedure Rule 12 shall take precedence.

I. General

Members of the public can ask specific questions of the Leader, Members of the Cabinet or any Chairman of a Committee at ordinary meetings of the Council and questions can be asked by anyone who lives, works or studies in Hart District. Questions should be clear and concise (no more than 100 words including any context) and should be framed to elicit information rather than to make a statement. Any question may be edited by the Chief Executive to bring it into proper form and to secure reasonable brevity. The Chairman of Council, in consultation with the Chief Executive may refer a question to Officers for a direct written response if they consider the question can be most appropriately handled in that way. This may happen where, for example, it is felt that the question requires an in depth technical answer, or is unreasonably excessive because of its length or its number of parts.

The total time allowed for both questions and answers shall be 20 minutes. This limit may be extended at the discretion of the Chairman.

2. What should Questions be about?

The purpose of Public Questions is for members of the public to seek information. It should not be used as a platform to further a particular point of view. Questions that take the form of a statement and not a genuine enquiry are unlikely to be accepted as being suitable for the purposes of Public Questions. In addition, questions should not be about:

- a) an identifiable person
- b) issue which is clearly outside the control or reasonable influence of the Council (e.g. national or international issues)
- c) supporting (either positively or negatively) the financial interests of the person submitting the question
- d) the questioner's own particular circumstances;
- e) matters which are the subject of legal or enforcement proceedings or an appeal to a tribunal or to a Government Minister or an investigation by the Local Government Ombudsman;
- f) personal circumstances or conduct of any Officer and Councillor or conditions of service of employees;
- g) activities and aims of a political party or organisation;
- h) any matter relating to a planning application/decision, including about a development plan document or the community infrastructure levy

- i) any matter relating to an alcohol, gambling or sex establishment licensing application/decision
- j) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse (either oral or written) to a review or right of appeal conferred by or under any enactment, or the right to be heard by independent examination.

It is also unlikely that questions will be found acceptable where they relate to matters that are the subject of current or contemplated consultation exercises. The proper way to deal with such matters is to participate in the consultation exercise.

3. Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions or may limit questions to one per person to ensure the maximum number of individuals have the opportunity to ask questions in the allotted time.

4. Notice of questions

A question may only be asked if notice has first been given in writing to the Chief Executive (email to committeeservices@hart.gov.uk) no later than midday five clear⁵ days before the day of the meeting (e.g. normally midday on the Friday prior to the Council meeting on the following Thursday). Each question must give the name and address of the questioner.

5. Scope of questions

The Chief Executive may reject a question if it:

- a) is not about a matter for which the local authority has a responsibility or which affects the District
- b) is defamatory, frivolous, vexatious, or offensive
- c) requires the disclosure of confidential or exempt information.

The Chairman may also rule that a question should not be answered if it is felt that the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.

6. Record of questions

Copies of the questions accepted will be circulated to all Councillors and will be made available to the public attending the meeting. Only the specific question and answer will be published in the minutes after the meeting. Background or supporting material will not be recorded or published.

7. Asking the question at the meeting

The Chairman will invite the questioner to put his question. If a questioner who has submitted a written question is unable to be present, he may ask the Chairman to put the question on his behalf.

⁵ Clear days excludes the day the question is received and the day of the meeting.

8. Time Limits

The time allowed for each question is 2 minutes and the time allowed to answer the question is also 2 minutes.

9. Supplementary question

A questioner who has attended the Council meeting to pose their question may also then put one supplementary question to the Councillor who has replied to his original question. The supplementary question must arise directly out of the original question or the reply. It must not be a statement. It should also not repeat the original question.

10. Written answers

Any question that cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

How to contact Committee Services

Email: committeeservices@hart.gov.uk

Write: Committee Services, Hart District Council, Harlington Way, Fleet, GU51 4AE

PETITIONS

Extract from Hart District Council Constitution – NO CHANGE PROPOSED

“13. PETITIONS

- 13.1 Application by a Member or any other person or persons for a petition to be received at a meeting must be made to the Chief Executive not less than five clear working days prior to the meeting.
- 13.2 The subject matter of the petition shall be referred to the Cabinet, the appropriate Cabinet Member or the Committee (or such other more appropriate outside organisation) which normally deals with business of that nature.
- 13.3 Petitions may be submitted at any time to the Leader or the relevant Cabinet Member and will be referred in accordance with Rule No. 13.2.
- 13.4 Petitions will be dealt with in accordance with the process set out in Appendix 2”.

PROPOSED

Hart District Council's Petitions Scheme

The purpose of this Scheme for Petitions is to provide guidance to Members, Officers, and the public on how petitions to the Council will be dealt with. It is intended to be read alongside, and to be complementary to, Council Procedure Rule 13 (Petitions) as set out in the Hart District Council Constitution. If there is any conflict between the two, then Council Procedure Rule 13 shall take precedence.

1. What is a petition

A petition is a formal written request, typically one signed by many people, appealing to the Council in respect of a particular cause.

To fall in with the requirements of the scheme, the petition must relate to a function of the authority and partner organisations, to 'an improvement in the economic, social or environmental well-being of the authority's area to which any of the authority's partner authorities could contribute'. A petition can also be about issues that involve neighbouring authorities where there is a direct impact on people in Hart District.

2. Who can submit a petition?

A petition can be submitted by anyone who lives, works or studies in Hart District.

3. How to submit a petition?

Petitions can be submitted at any time and will be considered at an appropriate meeting 5 clear days⁶ after submission. This does not necessarily mean that the petition will be considered at the first opportunity. If the petition raises an issue that requires further investigation then the petition will be considered once those investigations have reached a point that allows a debate on the request contained in the petition to be considered. Petitions should be sent to Committee Services at Hart District Council:

Email: committeeservices@hart.gov.uk

Write: Committee Services, Hart District Council, Harlington Way, Fleet, GU51 4AE

4. Number of signatures required for a petition

To comprise a petition it should be signed by many people (more than 50). The response to petitions will depend on what is being asked for and how many signatures it contains. In considering how to respond consideration will be given to what alternative action the Council can take e.g. holding a meeting with the lead petitioner, referring the petition to a cabinet member or officer. If the petition meets the following numbers, it may be presented to the following meeting:

Council/Cabinet (depending on whether the matter is a Council or Executive function) – over 1000 separate signatories

Overview and Scrutiny – between 500 and 1000 separate signatories

⁶ Clear working days excludes the day the petition is received and the day of the meeting.

Petitions with less than 500 separate signatures will be dealt with by the relevant **Head of Service** in consultation with the respective Cabinet Portfolio Member, and of it relates to local issues only, the local Ward Councillors.

5. Issues which the Council will not consider in Petitions

The Council will not accept petitions that:

- are abusive, vexatious, libellous or otherwise inappropriate
- might lead to the Council acting illegally
- relate to an identifiable person
- relate to an issue which is clearly outside the control or reasonable influence of the Council (e.g. petitions on national or international issues)
- clearly support (either positively or negatively) the financial interests of the person submitting the petition
- refer to a matter which is already the subject of legal proceedings
- relate to a matter that is already, or is proposed to be, subject to public consultation (statutory or otherwise) to be carried out by the Council
- are submitted from employees about terms and conditions of employment or relates to internal management issues
- duplicates or is substantially similar to a petition received less than 6 months before, unless there has been a material change in circumstances
- activities and aims of a political party or organisation
- personal circumstances or conduct of any Officer and Councillor or conditions of service of employees;

This Petitions Scheme also does not apply to certain matters, where there are already existing processes for communities to have their say. The following matters are therefore excluded from the scope of this Petitions Scheme:

- any matter relating to a planning application/decision, including about a development plan document or the community infrastructure levy
- any matter relating to an alcohol, gambling or sex establishment licensing application/decision
- any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse (either oral or written) to a review or right of appeal conferred by or under any enactment, or the right to be heard by independent examination.

In the six-week period before an election or referendum the Council may need to deal with petitions differently to avoid taking any action that can otherwise be perceived as being advantageous to any candidates or parties in the forthcoming elections or referendum.

6. What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take. People need to know what they are signing and therefore the petition should state clearly what it is about or what you think is wrong and what you would like to

happen. It should be capable of being read in a few moments to enable people signing a petition to read it first. The petition should state that it is directed to Hart District Council.

- The name, address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the Petition Organiser. This is the person the Council will contact to explain how we will respond to the petition.

7. How will the Council respond to a petition?

The Council's response to a petition will depend on what a petition asks for, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a Council meeting
- referring the issue to local Ward Councillors
- referring the issue to the Council's Overview & Scrutiny Committee⁷
- referring the issue to the Council's Cabinet⁸
- holding an investigation
- commissioning relevant research
- organising a public meeting
- mounting a wider public consultation
- meeting with the Petition Organiser or representatives of signatories
- providing a written response outlining the Council's views on the subject
- consulting statutory partners and local service providers
- instigating discussions with the voluntary and community sectors
- making representations to Commercial or other Interests.

If the concern is a local, ward-based issue, then the presumption will be to refer the matter to local Ward Councillors. As a matter of course, local Councillors will be formally notified of all valid petitions that relate to the residents in their respective Wards.

Details of petitions received and the final response /outcome of the petition will be published on the Council's website.

8. Petitions with 1,000 or more Signatures - Council (or Cabinet if the matter relates to an Executive function) debate

If a petition contains 1,000 or more signatures it will normally be debated at the next ordinary meeting of the Council/Cabinet, although on some occasions this may not be possible and consideration will take place at a subsequent meeting. At the meeting the Petition Organiser will be given three minutes to address the Council/Cabinet,

⁷ Overview and scrutiny is an important and specialist role for all Councillors who are not part of the Cabinet arrangements. Overview and Scrutiny Committee has processes available to it which enables it to review and challenge decisions, policies and services, inform decision making and offer recommendations for the Cabinet and other agencies to consider.

⁸ Cabinet is the executive decision-making body within the Council's structures, which is chaired by the Leader of the Council and is responsible for taking most of the day to day decisions within agreed budgets and policies.

and the petition may then be discussed by Councillors for a maximum of 20 minutes.

The Council/Cabinet will decide how to respond to the petition at this meeting. It may decide to:

- take the action the petition requests (if it is within the Council's power to do so),
- not to take the action requested for reasons put forward in the debate, or
- to commission further investigation into the matter, for example by Overview and Scrutiny Committee or relevant Service.

9. Petitions with 500 or more (but less than 1,000) signatures – Consideration by Overview and Scrutiny Committee

If a petition contains 500 signatures or more, but less than 1,000 signatures, it will be referred to Overview and Scrutiny Committee for consideration unless it is about an issue which is resolved before the meeting to the Petition Organisers satisfaction. Overview and Scrutiny Committee will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will take place at a subsequent meeting. The Petition Organiser will be given the opportunity to present the petition at the meeting and the petition will then be discussed by Councillors. Where possible the Cabinet Member with the relevant portfolio responsibility and appropriate officers will be invited to attend.

At this meeting, Overview and Scrutiny Committee will consider and make recommendations on how the Council should respond to the issue raised in the petition. The Committee may decide to recommend (to the Council, Cabinet, officers or partners) that:

- the action the petition requests should be taken,
- no action is taken for reasons put forward in the debate,
- further investigation be commissioned into the matter, for example by a relevant Service, or
- the matter be referred to local Ward Councillors for consideration.

10. Petitions with less than 500 signatures

If a petition contains less than 500 signatures it will be referred to the appropriate Head of Service or Service Manager for consideration. The Head of Service/Service Manager may decide to use delegated powers, in accordance with existing policies and budget provision to:

- take the action that the petition requests should be taken,
- not take the action requested by the petition where this would be outside existing policies and budget provision,
- refer the matter to Cabinet, Overview and Scrutiny Committee or local Ward Councillors for consideration. The relevant Cabinet Member and appropriate local Ward Councillors will first be consulted on the action proposed to taken by the Head of Service.

11. Feedback – How will the petitioners be told the outcome?

The Petition Organiser will receive a letter or email setting out the Council's final response to the petition and the reasons for it. This will normally outline the steps taken by the Council to consider the issue, including the involvement (where applicable) of Councillors.

How to contact Committee Services

Email: committeeservices@hart.gov.uk

Write: Committee Services, Hart District Council, Harlington Way, Fleet, GU51 4AE