

APPENDIX 1 - CHANGES FOR CONSIDERATION

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Items from the last meeting:		
Planning and Licensing Decisions	<p>Council Procedure Rule 13.2 applies to Committees as well as Council and prohibits a motion or amendment to one similarly rejected being moved (lacking notice) without signature of one third or more of the Councillors appointed to that committee. When applied to Planning and Licensing Committees an issue has arisen whereby through the course of debate on applications a motion is put forward and rejected to both approve and deny planning permission or a licensing application. This could be for varying reasons, but the outcome would be that in order to decide the application suspension of council procedure rules needs to be employed as set out in CPR 23. As suspension of rules without notice requires half of the Councillors there present to agree, it becomes confusing for the public and elongates an already convention-heavy procedure.</p> <p>It is therefore proposed that both in respect of applications heard by either Licensing or Planning Committee that this rule should no longer apply. If Members were so minded to agree the amendment would be as follows:</p> <p>New CPR 24. 2 – CPR 13.2 does not apply to applications heard by either the Planning or the Licensing Committee. It does apply however to all other decisions taken by those committees.</p> <p>The feedback from Planning Committee was divided with some feeling that this issue does not arise often, and therefore it was not a major concern for them, with others considering that removal of this</p>	Part 4.1 Council Procedure Rules Page 72-91

	<p>provision conflicts with transparency. It is therefore with Standards Committee to debate. A decision will be required on maintaining status quo or to apply the suggested change.</p>	
<p>Clarification of Deferment and Adjournment</p>	<p>CPR 12.11(d) requires clarification from the Monitoring Officer. When a motion that the debate be now adjourned is carried, the discussion shall be resumed at the next meeting, when the Member who moved its adjournment shall be entitled to speak first. This applies to all working groups and committees. Adjournment of a debate is often referred to as 'deferred' by Members, however deferral only applies where an item of business has not been debated. Deferral means withdrawal before commencement of discussion so that the item can be debated at the next available meeting, not a partial debate to be continued at a later time. Adjournment requires a date specified to recommence. Where this is not specified it should be automatically taken to the next meeting of Council or that Committee.</p> <p>In order to ensure this rule is applied correctly the following amendments are made:</p> <p>New 12.11(e) When a motion that the debate be now adjourned is carried, the discussion shall be resumed at the next meeting, when the Member who moved its adjournment shall be entitled to speak first.</p> <p>Footnote clarification *Members may use the term 'defer', however in the context of a debate commenced this is classed as 'adjournment'.</p> <p>The feedback from Planning Committee was that they saw no issue in this rule being applied unilaterally across all Committees and Council. The additional wording suggested above just provides clarity to avoid challenge to the Planning Committee process.</p>	<p>Part 4.1 Council Procedure Rules Page 72-91.</p>

	<p>Options relating specifically to Planning Committee can be considered, and the committee wished to remain open to these. In the meantime, this rule is the existing provision and suggestions may be forthcoming to refine the Planning Committee process in the new municipal year.</p>	
<p>The following changes are suggested:</p>		
<p>Delegations for Officers in Acting-Up Positions</p>	<p>The current delegation scheme does not make express provision for cover arrangements for senior positions where an officer is formally on an 'Acting Up' agreement. This creates confusion as to whether an officer in that position may formally utilise the delegated powers, and could bring any decisions made during the 'Acting Up' period in to question.</p> <p>For clarity, Acting Up is a formally agreed HR procedure whereby an officer is temporarily promoted for a set period of time, usually to cover an extended absence or vacancy. This is a contracted arrangement. It would only be relevant to the delegation scheme whereby this is employed for a post of Assistant Director or Director.</p> <p>For the 3 Statutory Roles, these are always covered, as HOPS, S151 and MO duties are always assigned to deputies during periods of absence or leave and are discretionally utilised only if absolutely necessary.</p> <p>It is suggested that a new 6.4 is created in the delegation scheme (changing the numbering of that section) to provide that:</p> <p>6.4 An officer in a formal 'Acting-Up' arrangement may utilise the powers delegated to the post that they are covering for the specified period of that contractual agreement.</p>	<p>Delegation Scheme Page 52.</p>

JEAC	<p>The Joint Employment and Appeals Committee was established to consider Joint positions with Bolsover District Council. In light of recent changes, it is appropriate now for the emphasis to be on North East Derbyshire only positions.</p> <p>This would require re-naming the Committee to the Employment and Appeals Committee (dropping the Joint) but retaining all other responsibilities and to have the same composition.</p>	Functions Scheme Pages 46-47
Licensing Sub-Committee	<p>S9(1) of The Licensing Act 2003 prescribes that '<i>a Licensing Committee may establish one or more sub-committees consisting of 3 members of the Committee</i>'. Currently our Sub-Committees have 5 Members appointed on the rationale that the quorum is three and a conflict may arise which prohibits attendance. Less than five members would make meetings vulnerable to last minute cancellations. However rational the rationale for these appointments, it doesn't strictly comply with the legislation, and the Monitoring Officer has advised that we should revert to 3 Member Sub-Committees.</p> <p>There are no further Licensing Sub-Committees this year, and therefore there is no immediate action to be taken.</p> <p>To mitigate Members concerns from previous discussions on this matter, we have adjusted the committee timetable to take account of a regular need for sub-committee meetings and these dates will be published for all Licensing Committee members to reserve in their diaries. The Chair of Licensing is aware of the situation and the suggested remedy and may wish to speak to the committee on this matter.</p>	Functions Scheme Page 40-45