

# Part 4

## Council Procedure Rules



### Rules of Procedure: Council Procedure Rules

#### ANNUAL MEETING OF THE COUNCIL

##### 1.1 Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) elect the Vice Chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman of the Council and/or Head of Paid Service;
- (vi) elect the Leader of the Council;
- (vii) agree and appoint members of the Executive;
- (viii) appoint Scrutiny Panels and such other bodies as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree as set out in Part 3 of this Constitution;
- (x) approve a programme of ordinary meetings of the Council for the year; and
- (xi) consider any business set out in the notice convening the meeting.

## 1.2 Selection of Councillors on Bodies of the Council and Outside Bodies

At the annual meeting, the council meeting will:

- (i) decide which bodies to establish for the municipal year;
- (ii) decide the terms of reference for those bodies;
- (iii) decide the size of those bodies;
- (iv) decide the allocation of seats to political groups in accordance with the political balance rules;
- (v) receive nominations of councillors to serve on each Council body and outside body;  
and
- (vi) appoint to those bodies and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

## 2. ORDINARY MEETINGS

In addition to the annual meeting, three ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice Chairman of the Council are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from councillors;
- (iv) deal with any business from the last Council meeting;
- (v) receive reports from the Executive and all other relevant bodies and receive questions and answers on any of those reports;
- (vi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (vii) consider motions; and
- (viii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's

budget and policy framework and reports of Scrutiny Panels and any other relevant bodies of the Council for debate.

### 3. EXTRAORDINARY MEETINGS

#### 3.1 Calling extraordinary meetings

Those listed below may request the Head of Paid Service to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution; ii) the Chairman of the Council; iii) any of the statutory officers; and
- iv) any five councillors of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### 4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be notified in the agenda

### 5. NOTICE OF AND SUMMONS TO MEETINGS

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Head of Paid Service (or for bodies other than Council where no other officer is required to do so, the Monitoring Officer (or Democratic Services Manager in his/her absence)) will send an agenda signed by electronic means to every councillor of the Council or relevant body or leave it at their usual place of residence. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### 6. CHAIRMAN OF MEETING

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

### 7. QUORUM

- 7.1 The quorum of a Council meeting will be one quarter of the whole number of councillors.

- 7.2 The quorum of any other relevant body of the Council will be as set out in the appropriate section of this constitution.
- 7.3 During any meeting if 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 he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 7.4 For the avoidance of doubt where a councillor would have been present for the duration of a meeting but for the fact that he or she was prevented or restricted from participating in any business of that meeting by virtue of the code of conduct of the Council, that councillor shall not be regarded as being present at that meeting for the purposes of calculating whether the meeting is quorate (except in particular circumstances e.g in the event of being granted a dispensation).

## 8. QUESTIONS BY COUNCILLORS

### 8.1 On reports of the Executive

- (i) councillor of the Council may ask the Leader of the Council any question without notice upon an item of the report of the Executive when that item is being received or under consideration by the Council. Unless the chairman decides otherwise no statements will be made other than those which are strictly essential to define the question. A councillor who has put such a question may also put one supplementary question but only if the supplementary question arises directly out of the reply given. The chairman may reject any question from any councillor if in his or her opinion the question is substantially the same as a question which has already been put to that meeting or a meeting of Council in the past three months.

### 8.2 Questions on notice at full Council

Subject to Rule 8.3, a councillor of the Council may ask:

- the Chairman;
- a member of the Executive; or
- the chairman of any body

a question on any matter in relation to which the Council has powers or duties or which affects the area.

### 8.3 Notice of questions

- (i) councillor may only ask a question under Rule 8.2 if either:

- (a) they have given at least 7 working days in writing of the question to the Democratic Services Manager (i.e., by 12 o'clock midnight on the Monday in the week preceding the week of the meeting of Council). For the purposes of this Procedure Rule, receipt of any such questions via electronic means is considered acceptable; or
- (b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Monitoring Officer (or Democratic Services Manager in his/her absence) by 10.00 am on the day of the meeting (if the meeting is scheduled for the afternoon) or by 2.00 pm on the preceding day (if the meeting is scheduled for the morning).

## 8.4 Response

An answer 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; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- (d) a brief oral answer supplemented by a written answer circulated later to the questioner.

## 8.5 Supplementary question

A councillor asking a question under Rule 8.2 may ask one supplementary question without notice of the councillor to whom the first question was asked. The supplemental question must arise directly out of the reply.

## 9. MOTIONS, AMENDMENTS OR ALTERATIONS OR WITHDRAWALS OF MOTIONS – GENERAL PROVISIONS

The rules which follow in this part of the constitution in relation to the moving, amendment or alteration or withdrawal of motions shall in no way operate at any time to avoid or circumvent compliance with paragraph 2.1(e) of the Budget and Policy Framework Rules and the rules which follow therefore shall be construed accordingly.

## 10. MOTIONS ON NOTICE

### 10.1 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least 2 councillors, must be delivered to the Democratic Services Manager not later than seven working days before the date of the meeting (i.e. by 12 o'clock midnight on the Monday in the week preceding the week of the meeting of Council). For the purposes of this Procedure Rule, receipt of any such motions via electronic means is considered acceptable.

### 10.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### 10.3 Scope

Motions must relate to services the Council provides, commissions, or formally contributes to, financially or otherwise through partnership working.

If a potential motion does not meet this requirement, the Monitoring Officer has delegated authority, in consultation with the Chairman of Council, to determine whether or not a motion is presented to a meeting of the Council.

## 11. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a member or officer working group arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of bodies of the Council or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;

- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate; (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule except those specified in Rule 22;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

## 12. RULES OF DEBATE

### 12.1 No speeches until motion seconded

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

### 12.2 Right to require motion in writing

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

### 12.3 Secunder's speech

When seconding a motion or amendment, a councillor may reserve their speech until later in the debate.

### 12.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Unless in the opinion of the chairman it would not be desirable or appropriate to time limit speeches on any topic to be discussed having regard to its nature complexity or importance, no speech may exceed five minutes.

### 12.5 When a councillor may speak again

A councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another councillor;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (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 a right of reply;
- (e) on a point of order.

#### 12.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there is none, put it to the vote.

#### 12.7 Alteration of motion

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

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

#### 12.8 Withdrawal of motion

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

#### 12.9 Right of reply

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

#### 12.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules;
- (h) to not hear further a councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

#### 12.11 Closure motions

- (a) A councillor may move, without comment, the following motions at the end of a speech of another councillor:
- (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion 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.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 12.12 Point of order

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

#### 12.13 Personal explanation

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

## 13.STATE OF THE SOUTH HAMS DEBATE

### 13.1 Calling of debate

The Leader of the Council may call a state of the South Hams debate annually on a date and in a form to be decided by him or her in consultation with the chairman.

### 13.2 Form of debate

The will decide the form of the debate with the aim of enabling public involvement and publicity. This may include holding workshops and other events prior to or during the state of the South Hams debate.

### 13.3 Chairing of debate

The debate will be chaired by the chairman or his/her nominee.

### 13.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader of the Council in proposing the budget and by the Leader of the Council and appropriate others in proposing the policy framework to the Council for the coming year.

## DECISIONS AND MOTIONS

### 13.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least one third of the members of the relevant body.

### 13.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of members of the relevant body.

Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months

### 13.3 Reference up of decisions

Notwithstanding that a matter is delegated, the Executive or another Committee can refer, by way of recommendation, a matter to Council for a decision.

Where the decision has been requested for referral to Council under this rule, the matter is classed as ‘unresolved’ and stands referred to the next ordinary meeting of Council for a decision or to an extraordinary meeting called for that purpose.

## 14 VOTING

### 14.2 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.

### 14.3 Chairman’s casting vote

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

### 14.4 Show of hands

Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 14.5 Ballots

The vote will take place by ballot if one third of the members present at the meeting demand it. The chairman will announce the numerical result of the ballot immediately the result is known.

### 14.6 Recorded vote

If five members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

On any decisions of the Council relating to setting the annual budget or council tax, a recorded vote will be conducted.

- i recorded vote will also be conducted for all planning applications determined by the Development Management Committee.

### 14.7 Right to require individual vote to be recorded

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

## 14.8 Voting on appointments

If there are more than two people nominated for any one 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. Where a vote is required to fill multiple vacancies on a body and the number of nominations exceed the number of vacancies, voting shall take place by the use of ballot papers.

Vacancies will be allocated to those councillors attracting the highest number of votes until all vacancies have been filled. The chairman shall have absolute discretion on the method to be employed to resolve situations where a tie in voting occurs.

## 15. MINUTES

### 15.1 Signing the minutes

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

### 15.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### 15.3 Form of minutes

Minutes will contain all motions and amendments upon which a formal vote has been taken in the exact form and order the chairman put them.

## 16. RECORD OF ATTENDANCE

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

## 17. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

## 18. COUNCILLORS' CONDUCT

### 18.1 Standing to speak

When a councillor speaks at full Council they must stand and address the meeting through the Chairman of the Council. If more than one councillor stands, the Chairman of the Council will ask one to speak and the others must sit. Other councillors must remain seated whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

### 18.2 Chairman standing

When the Chairman of the Council stands during a debate, any councillor speaking at the time must stop and sit down. The meeting must be silent.

### 18.3 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 move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

### 18.4 Councillor to leave the meeting

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

### 18.5 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.

## 19. DISTURBANCE BY PUBLIC

### 19.1 Removal of member of the public

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

### 19.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

## 20. USE OF RECORDING EQUIPMENT AT MEETINGS OF THE COUNCIL

The press and public are welcome to attend public meetings of the Council and its bodies. The press and public may take photographs, film, and audio record the proceedings and use social media to report on the meeting. This is subject to the activity not disrupting the business of the meeting. Whilst no prior permission is required to carry out this activity, it is advisable that any person wishing to record a public meeting let officers know so that all the necessary arrangements can be made for the public meeting.

In the event that the meeting considers confidential or exempt business, all members of the public and press must leave the room with their equipment as requested for the consideration of such business.

## 21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

### 21.1 Suspension

All of these Council Rules of Procedure except Rules 9, 15.6, 16.2 and 17 may be suspended by motion on notice or without notice if at least one half of the whole number of councillors of the Council are present. Suspension can only be for the duration of the meeting.

### 21.2 Amendment

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

## 22. INTERPRETATION OF PROCEDURE RULES

The ruling of the chairman of any body of the Council or Council itself as to the construction or application of these procedure rules, or as to any proceedings of the Council or relevant body, shall not be challenged at any meeting.

### 23. APPROVED DUTIES

The definition of approved duty for the purposes of payment to councillors of travelling and subsistence allowances as discussed in the Council's Scheme of Members' Allowances as contained within Part 6 of this constitution when the Council or one of its bodies or the Head of Paid Service or other chief officer authorises a councillor's attendance at a meeting or event.

### 24. LEGAL PROCEEDINGS

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

### 25. AUTHENTICATION OF DOCUMENTS

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Corporate Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £20,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

### 26. COMMON SEAL OF THE COUNCIL

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her.

### 27. PETITIONS

27.1. A petition may be made to the Council provided that the petition includes:

- A clear and concise statement on the subject of the petition
- The statement should include the action that the petitioners wish the Council to take.
- Name, address and signature of any person supporting the petition (who must be persons living, working or studying in the District of South Hams)
- Contact details and address of the petition organiser
- A clear statement as to whether the petition organiser wishes to present the petition to a Council meeting and/or whether the petition organiser requests a Councillor to present the petition

27.2 The Council will refuse to accept a petition where the petition:

Relates to:

- A planning or licensing application
- A statutory petition (for example, requesting a referendum)
- A matter where there is an existing right of appeal
- Is considered vexatious, abusive, or otherwise inappropriate (as determined by the Monitoring Officer)
- Is substantially the same as a petition submitted in the previous 12 months

28.3 The Council may respond to the petition in one of more of the following ways:

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with the petitioners
- Refer the matter for consideration by the Overview & Scrutiny Panel
- Not taking any action
- The Head of Paid Service has a discretion to deal with petitions differently in the period immediately before an election or referendum (the ‘purdah’ period)