
GENERAL PURPOSES COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Monday, 5th December, 2016 at 2.00 pm

MEMBERSHIP**Councillors**

D Blackburn	Farnley and Wortley;
J Blake	Middleton Park;
R Charlwood	Moortown;
S Golton	Rothwell;
G Latty	Guiseley and Rawdon;
J Lewis	Kippax and Methley;
A Lowe	Armley;
A Ogilvie	Beeston and Holbeck;
J Procter	Wetherby;
J Pryor	Headingley;
S Varley	Morley South;
L Yeadon	Kirkstall;

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A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Procedure Rules (in the event of an appeal the press and public will be excluded).</p> <p>In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance and Scrutiny Support at least 24 hours before the meeting.</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2000 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p>MINUTES - 9TH MAY 2016</p> <p>To receive and approve the minutes of the meeting held on 9th May 2016.</p>	1 - 2
7			<p>SUBSTITUTION ARRANGEMENTS FOR COUNCIL COMMITTEES</p> <p>To consider a report of the City Solicitor recommending amendments to the Council Procedure Rules to allow greater flexibility around the appointment of substitutes to Plans Panels and the report also recommends provision for substitution for the Council's Housing Advisory Board.</p> <p>(Report Attached)</p>	3 - 30

Item No	Ward/Equal Opportunities	Item Not Open		Page No
			<p>THIRD PARTY RECORDING</p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p>	

GENERAL PURPOSES COMMITTEE

MONDAY, 9TH MAY, 2016

PRESENT: Councillor J Blake in the Chair

Councillors D Blackburn, R Charlwood,
D Coupar (substitute for A Lowe), S Golton,
G Latty, J Lewis, J Pryor, M Rafique,
S Varley and L Yeadon

Apologies Councillors A Lowe and J Procter

35 Appeals against refusal of inspection of documents

There were no appeals against the refusal of inspection of documents.

36 Exempt Information - possible exclusion of the press and public

There were no resolutions to exclude the public.

37 Late items

No late items were submitted to the agenda for consideration.

38 Declaration of Disclosable Pecuniary and Other Interests

There were no declarations of interest.

39 Apologies for absence

Apologies for absence were received from Councillor Lowe and Councillor J Procter. Councillor Coupar attended as substitute for Councillor Lowe.

40 Minutes - 9th February 2016

RESOLVED – That the minutes of the meeting held on 9th February 2016 be approved as a correct record.

41 Amendments to Council Procedure Rules

Further to minute 17 of the meeting held on 19th October 2015 the City Solicitor submitted a report presenting feedback from political groups on changes to the operation of Ordinary Council meetings that have been in operation for a trial period during this municipal year and seeking approval to the new arrangements which was set out at Appendix 1 to the report, with effect from the commencement of the new municipal year.

In addition the report also proposed minor amendments to the substitute provisions for General Purposes Committee and Plans Panels , to provide clarification in respect of circumstances where suspension of procedure rules to introduce a motion will also permit the admittance of amendments to that motion and to the Officer Delegation Scheme (Council (non-executive) Functions) for the City Solicitor.

RESOLVED –

- a) To recommend that full Council approves the revised Council Procedure Rules as set out at Appendix 1.
- b) To note the indicative timings for the consideration of business at ordinary meetings of full Council as set out at Appendix 2.
- c) To recommend that full Council approves the amendment to the officer Delegation Scheme (Council (non-executive) Functions) to the City Solicitor as set out at Appendix 3.

42 Plans Panels Terms of Reference

The Chief Planning Officer submitted a report informing Members that the existing arrangements for the Plans Panels have been in place since 2012, when a new City Panel and two Area Panels- North & East and South & West were created.

Members noted that since then the workload of the Panels has fluctuated, with often an imbalance of workloads between the three Panels and a heavy agenda for the City Panel, which deals with city centre applications as well as a range of applications of strategic importance.

A review of the terms of reference of the City Panel has recently been carried out in a bid to readdress the workload issues and to refocus the work of the City Panel and the Area Panels, placing applications before the most appropriate Plans Panel for consideration.

Members noted that the review had been carried out by the Joint, cross party, Member-Officer Working Group, a, which has made a number of proposed changes to the City Panels terms of reference.

To make changes to the size, scale and type of items going before the City Panel, requires changes to the terms of reference contained within the Council's Constitution.

RESOLVED – That the proposed changes to the City Panel terms of reference be recommended to full Council for approval.

Report of City Solicitor

Report to General Purposes Committee

Date: 5th December 2016

Subject: Substitution Arrangements for Council Committees

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The substitution arrangements for Council Committees are set out in the Council Procedure Rules.
2. Following recent feedback from Whips, the City Solicitor recommends amendments to those arrangements to provide greater flexibility within the substitution arrangements for Plans Panels to enable full engagement in the work of Council Committees by the minority groups.
3. The City Solicitor also recommends the provision of substitution arrangements for the Housing Advisory Board.

Recommendations

1. General Purposes Committee is requested to recommend to Full Council approval of the amendments to the Council Procedure Rules set out at Appendix A to this report.

1. Purpose of this report

- 1.1 This report recommends amendments to the Council Procedure Rules to allow greater flexibility around the appointment of substitutes to Plans Panels.
- 1.2 The report also recommends provision for substitution for the Council's Housing Advisory Board.

2. Background information

- 2.1 The Council appoints a number of committees with delegated authority to fulfil its roles and functions. In appointing these committees Council sets out the relevant Terms of Reference and determines the membership of each committee.
- 2.2 Rule 25 of the Council Procedure Rules sets out which of the rules apply to Council Committees. It includes Rule 26 which makes provision in respect of substitution arrangements.

3. Main issues

Plans Panels

- 3.1 Existing arrangements set out in the Council Procedure Rules allow for substitution to plans panels by Members appointed to any of the Council's regulatory committees. Feedback received from Whips has indicated that this arrangement causes difficulty for the minority groups who, in accordance with the proportionality arrangements, have fewer seats on those regulatory committees and therefore only a small pool of members to draw from. This means that the minority groups are not always able to find substitutes for Plans Panel in accordance with the substitution provisions.
- 3.2 The City Solicitor therefore proposes an amendment to the rules to enable nomination by each Whip of a list of substitutes to Plans Panels. The list shall include all those Members of each group who are Members of any of the other regulatory committees, but may also include any Member who has received appropriate training.
- 3.3 In accordance with proportionality requirements a Member will only be able to substitute for a Member of the same political group.
- 3.4 Attendance as a substitute at Plans Panel will remain contingent upon having received up to date training appropriate to the role. Substitutes will be bound by the Planning Code of Good Practice and other relevant policies and procedures whilst acting as a voting member of the Plans Panel.

Housing Advisory Board

- 3.5 There are currently no arrangements for substitution to the Council's Housing Advisory Board. However, as the current distribution of seats to elected Members on the board is 4 Labour, 1 Conservative and 1 Liberal Democrat, in the event of either the Conservative or Liberal Democrat Member being unable to attend their group is left without representation on the Board.
- 3.6 The City Solicitor therefore recommends the introduction of substitution arrangements for the Housing Advisory Board, allowing each Whip to nominate one substitute for each Member on the Board.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The recommendations in this report follow feedback received from Whips at their meeting on 8th November 2016. Whips have been consulted on the subsequent proposals contained in this report. The Labour, Conservative and Liberal Democrat Group Whips have all responded and have indicated their support for the proposals set out.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 There are no implications for this report.

4.3 Council policies and best council plan

- 4.3.1 There are no implications for this report.

4.4 Resources and value for money

- 4.4.1 There are no implications for this report.

4.5 Legal implications, access to information, and call-in

- 4.5.1 Section 101 Local Government Act 1972 provides for a local authority to arrange for the discharge of its functions by a committee. The authority appoints its committees at its Annual meeting based on political proportionality in accordance with the requirements of Section 15 Local Government and Housing Act 1989. Whilst substitution of Members is accepted and common practice amongst authorities it is recommended that substitutes are named and appointed at the same time as substantive committee Members are appointed, allowing them to receive relevant training and experience.
- 4.5.2 As a decision in relation to a Council function, this decision will not be eligible for Call In.

4.6 Risk management

- 4.6.1 This report seeks to address the risk that smaller groups within the Council may lose representation on Council Committees under the operation of existing substitution arrangements where the pool of members on whom they may call is too small, or where no arrangements exist.

5. Conclusions

- 5.1 Amendments to the substitution arrangements for Plans Panels and for the Housing Advisory Board would allow for full representation of all political groups in accordance with proportionality requirements in the event of substitute representation being required.

6. Recommendations

- 6.1 General Purposes Committee is requested to recommend to Full Council approval of the amendments to the Council Procedure Rules set out at Appendix A to this report.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

COUNCIL PROCEDURE RULES**1.0 ANNUAL MEETING OF 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 March, April or May.

The annual meeting will:

- (a) elect a person to preside if the Lord Mayor and Deputy Lord Mayor are not present;
- (b) elect the Lord Mayor;
- (c) elect a Deputy Lord Mayor (or Vice Chair of Council);
- (d) pass a vote of thanks to the retiring Lord Mayor;
- (e) approve the minutes of the last meeting;
- (f) receive any declarations of interest from Members;
- (g) receive any announcements from the Lord Mayor and/or Head of Paid Service;
- (h) elect the Leader¹;
- (i) consider any recommendations made by General Purposes Committee;
- (j) establish such committees² as are required by statute and such other committees as it considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Section 2A of this Constitution);³
- (k) No appointments under Rule 1 shall be for a period beyond the next Annual Meeting of the Council but they may be altered at any meeting of the Council;
- (l) 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, Section 2C of this Constitution);

¹ Only as required by Article 7. If the Council fails to elect the Leader at the relevant annual meeting, or a vacancy in the office arises, the Leader is to be elected at a subsequent meeting.

² Such committees may be known as boards or panels.

³ References in these Rules to any committee established under Rule 1.1(j) shall be construed as including any other committee established by Full Council during municipal year.

- (m) receive the documents presented by the Leader in accordance with Executive and Decision Making Procedure Rules;
- (n) approve a programme of ordinary meetings of the Council for the year; and
- (o) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council will:

- (a) decide which committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) appoint to those committees and outside bodies except where appointments to those bodies has been delegated by the Council; and
- (e) appoint the Chair of those committees.

2.0 **ORDINARY MEETINGS**

2.1 Council Meetings

The Council may amend the programme of ordinary meetings agreed at the annual meeting.

All ordinary meetings shall be held at the **Civic Hall, Leeds**, at **1.00pm**, unless full Council decides otherwise.

2.2 Order of Business

Except as otherwise provided by Rule 2.3 or by statute, the order of business at every meeting of the Council, (other than the Annual meeting, any Extraordinary Meeting or the Budget Meeting⁴, or a State of the City meeting⁵ where the business to be transacted at the meeting will be specified in the Summons), shall be to:

- (a) choose a person to preside if the Lord Mayor and Vice Chair of Council are absent;

⁴ Business over and above the budget is usually admitted by agreement but there is a presumption that such agreement will not include the attendance of deputations or question time.

⁵ Or such other similarly styled meeting

- (b) approve as a correct record and sign the minutes of the last meeting of the Council except where the meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, in which case the next following meeting of the Council (being a meeting called other than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (signing of minutes) of that Schedule;
- (c) receive any declarations of interest from Members;
- (d) receive such communications as the Lord Mayor, the Leader, Deputy Leader, or Members of the Executive Board, or the Chief Executive consider to be appropriate;
- (e) receive deputations (if any) in accordance with Rule 10;
- (f) consider any recommendation of the Executive Board, and committees, established under Rule 1.1(j)⁶, and any sub-committees thereof;
- (g) receive such reports as the Chief Executive, Monitoring Officer or Section 151 Officer consider appropriate⁷;
- (h) deal with Executive questions (if any) in accordance with Rule 11;
- (i) receive the minutes of the Health and Wellbeing Board and Executive Board;
- (j) consider White Paper Motions (if any) submitted in accordance with Rule 12.

2.3 Variation of Order of Business

Business falling under items Rule 2.2 (a) or (b) shall not be displaced, but subject thereto the foregoing order of business may be varied by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

3.0 TIME LIMITS FOR BUSINESS

- 3.1 Each deputation shall be for no more than 5 minutes
- 3.2 A period of 30 minutes will be allowed for Executive Questions.
- 3.3 Consideration of all business to dispose of the motion to receive Health and Wellbeing Board and Executive Board minutes shall not continue beyond 4.20 pm.

⁶ Annual reports will be received from the following committees: Scrutiny (jointly); Community Committees (jointly); Plans Panels (jointly); Licensing Committee; Standards Committee.

⁷ In the case of a report relating to devolved matters, consideration of this report will take place after the tea break time; be time limited to 30 minutes; and will enable all groups the to contribute to the debate.

The motion to receive the minutes shall be conducted as follows;

- Consideration of Health and Wellbeing Board will be for a period of twenty minutes at the conclusion of which comments on Executive Board minutes will be heard until 4.10 p.m.
- The Leader of Council will sum up for a period of up to ten minutes from 4.10pm.

3.4 Each White Paper Motion shall be limited to forty five minutes, at the conclusion of which voting shall commence.

4.0 WINDING UP OF BUSINESS

4.1 At the conclusion of the speech being delivered at the expiry of a specified time period, the Lord Mayor shall put to the vote, without further discussion, all that is necessary to dispose of the matter under debate⁸ provided that:

- Executive Questions

Where a question has been commenced orally (but has not been completed within the time allotted for question time) that question is completed including any supplementary to that question and the response thereto.

- Consideration of Minutes

The Leader of Council has had the opportunity to sum up (for a period of not more than 10 minutes).

- White Paper Motions/ Amendments

The Mover of the motion has had the opportunity to sum up (for a period of not more than 4 minutes).

- Reference Back

The relevant Executive Board Member or Chair has had the opportunity to sum up (for a period of not more than 3 minutes) on the reference back.

5.0 EXTRAORDINARY MEETINGS

Those listed below may request the Proper Officer to call Council Meetings in addition to ordinary meetings:

(a) the Council by resolution;

⁸ For clarification, "all that is necessary properly to dispose of the matter under debate" means, as relevant, for the original motion properly to be moved and seconded; for any and all amendment(s) properly to be moved and seconded; and for the mover of the original motion to have an opportunity to exercise their right of reply/right to sum up.

- (b) the Lord Mayor;
- (c) the Chief Executive, the Monitoring Officer and Section 151 Officer; and
- (d) any five Members of the Council if they have signed a requisition presented to the Lord Mayor and s/he has refused to call a meeting or has failed to call a meeting within seven clear days⁹ of the presentation of the requisition.

6.0 NOTICE OF AND SUMMONS TO MEETINGS

- 6.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him/her to every Member of the Council or leave it at their usual place of residence. 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.
- 6.2 The notices for all meetings of committees established under Rule 1.1(j) shall be issued from the office of the Chief Executive and no matter shall be considered at such meeting without the prior agreement of the Chief Executive who shall first have been furnished with any written report or with details of any intended verbal report.

7.0 POWERS AND DUTIES OF THE LORD MAYOR

- 7.1 Any power or duty of the Lord Mayor in relation to the conduct of a meeting may be exercised by the Vice Chair, or in the absence of the Vice Chair, the person elected to preside at the meeting.
- 7.2 Any duty of the Chief Executive in relation to the conduct of a meeting may be exercised in the Chief Executive's absence by the City Solicitor.

8.0 QUORUM

- 8.1 The quorum of a meeting will be one quarter of the whole number of Members¹⁰.
- 8.2 If during any meeting of the Council, any Member draws to the attention of the Lord Mayor that there does not appear to be a quorum present, the Lord Mayor shall direct the Chief Executive to call over the names of the Members of the Council. If there is less than a quarter present, the Lord Mayor shall declare the meeting adjourned. The names of the Members present and those absent shall be recorded in the minutes of the Council.

⁹ Not including the date the requisition was received and not including weekends or bank holidays

¹⁰ Where more than one third of the Members are disqualified at the same time, and until the number of Members in office is increased to not less than two thirds of the whole, the quorum shall be determined by reference to the number of Members remaining qualified

- 8.3 The consideration of any business not transacted shall be adjourned to a time fixed by the Lord Mayor at the time the meeting is adjourned or, if the Lord Mayor does not fix a time, to the next ordinary meeting of the Council.

9.0 COMMUNICATIONS

- 9.1 There shall be no discussion on any matter referred to in communications from the Lord Mayor, the Chief Executive or Executive Members as are thought necessary to be read, but any Member shall be at liberty to move a motion, without notice, to refer any of such communications to the appropriate committee and such motion, on being seconded, shall be at once put to the vote.

10.0 DEPUTATIONS

- 10.1 The Council will not receive more than four deputations at any ordinary meeting.¹¹
- 10.2 A request for permission to bring a Deputation must be submitted, to the Head of Governance and Scrutiny Support, at least fourteen clear days in advance of the Council meeting for which permission is sought.
- 10.3 A copy of the proposed deputation speech must accompany the permission request.
- 10.4 Deputations shall be relevant to some matter in relation to which the Council has powers or duties or which affects the City of Leeds.
- 10.5 Deputation requests which relate solely to the interests of an individual or company, or which present, or may appear to present unsubstantiated allegations or claims in respect of an individual, group of individuals, a company or any other body, or are in any way vexatious or otherwise significantly prejudicial to the interests of the Council or the City of Leeds, will not be permitted.
- 10.6 Requests concerning matters being considered by a Plans Panel, the Licensing Committee (or a sub-committee) will not be received.
- 10.7 The suitability of a Deputation shall be determined by the Chief Executive. Permission to attend Council and present a Deputation shall be issued by the Chief Executive.
- 10.8 Eligible deputations shall be heard in the order in which permission is granted.
- 10.9 A deputation shall consist of at least two and no more than five people. One person from a deputation may address the Council, for no longer than five minutes¹².

¹¹ Except the Annual Meeting, an Extraordinary Meeting, the Budget Meeting and a State of the City (or other similarly styled) meeting where deputations shall not be heard.

¹² Including the reading of any written material

- 10.10 Where two or more deputations present opposing views on the same matter, the Council will not receive more than one of these related deputations at the same meeting.
- 10.11 The Council shall not normally receive a deputation on a matter that has been the subject of a deputation in the previous six months, except as a result of a refusal at 10.10.
- 10.12 The Council shall not debate any matter raised by a deputation when it is presented.
- 10.13 Any Member of the Council may move a motion without notice, that the deputation be or not be received, or that the subject matter be referred to the appropriate committee¹³. The Lord Mayor will put such a motion on being seconded, to the vote without debate.

11.0 EXECUTIVE QUESTIONS

11.1 Questions on Notice

- (a) Executive Questions may be put at each ordinary meeting of the Council (except, the Budget Meeting or a State of the City meeting¹⁴).
- (b) During question time, a Member may ask the Leader of the Council, the Deputy Leader, any Executive Member¹⁵ or the Chair of any executive committee¹⁶ through the Lord Mayor, any question on any matter in relation to which the Council has powers or duties, or which affects the City of Leeds¹⁷.
- (c) A question shall not be asked in the absence of the Member in whose name it stands unless they have given authority for it to be asked by some other Member of the Council.

11.2 Notice of Questions

Notice in writing of the question must be given to the Chief Executive before 10.00am on the Monday preceding the Council meeting. Questions from an individual or group will be taken in the order in which notice of the question is received from that individual or group.

¹³ Or to the officer with appropriate delegated authority who shall consider the matter in consultation with the relevant Executive Member.

¹⁴ or other such styled meeting. Questions cannot be put at the Annual Meeting or any Extraordinary Meeting.

¹⁵ In relation to any matter within their portfolio.

¹⁶ In relation to any matter within the committee's terms of reference.

¹⁷ A Member may also ask a Member of the Council appointed by full Council to another body, any question about functions discharged by that other body. Any question about any function discharged by the West Yorkshire Fire and Rescue Authority must be directed to a Member nominated by that Authority..

11.3 Response

- (a) Every question shall be put and answered without discussion but the person to whom a question has been put may decline to answer.
- (b) A Member to whom a question is addressed¹⁸ shall have discretion to nominate a Member to answer such question where the Member considers that the answer would most appropriately be given by such nominee.

11.4 Form of Response

An answer may take the form of:

- (a) a direct oral answer, or where the desired information is contained in a publication of the Council or of the relevant Joint Authority or Joint Committee, a reference to that publication; or
- (b) where the reply to the question cannot conveniently be given orally, a written answer circulated to Members of the Council. Written answers wherever possible should be sent out by the Chief Executive within 10 working days.

11.5 Supplementary Question

The Member who asked a question during question time may ask one supplementary question, arising directly out of the original question.

11.6 Unanswered Questions

Where the answer has not been commenced during question time, it shall be answered by written answer circulated to Members of the Council. If the answer to a question has been commenced orally but has not been completed within question time it may be completed orally including any supplementary to that question and the response thereto.

12.0 MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion signed by the Member or Members of Council giving notice must be delivered at the office of the Chief Executive prior to 10.00am of the day preceding the day for issue of the Summons. The proposer of a Motion shall have the right to correct or withdraw a Motion up to 10.00 am on the day the Summons is to be issued.

¹⁸ Except in relation to functions discharged by the West Yorkshire Fire and Rescue Authority – see footnote 15 above.

12.2 White Paper Motions

The number of White Paper motions admissible for full debate at any given meeting shall be limited to three^{19 20}.

12.3 Scope

- (a) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the City of Leeds.
- (b) All the notices of motion received by the Chief Executive shall be submitted to the Lord Mayor. If the Lord Mayor considers that any such motion relates to matters other than of a local nature or is similar to a matter which in the past six months has been rejected at a meeting of the Council, the Member concerned shall ask leave of the Council to introduce such a motion before proceeding to address Council on it. Once the motion is dealt with, no-one can propose a similar motion for six months.
- (c) There shall be no speech or discussion upon asking for such leave to so introduce a motion. The fact that any such motion requires the leave of the Council shall be indicated in the Council Summons.
- (d) If it appears to the Lord Mayor that any motion requiring notice relates only in part to the matters stated in (b) above, the Lord Mayor may invite the Member of the Council concerned to amend the motion in agreement with the Lord Mayor either by omitting the part relating to such matters or by dividing the motion so that the part relating to such matters is stated in terms of a separate motion, but without addition to the terms of the original motion. In such event the original motion shall appear on the Council Summons with the indication that it requires the leave of the Council, but it shall be competent for the Member concerned to move without leave the part agreed by that Member with the Lord Mayor as not relating to the matters above stated, and after that motion has been disposed of, if the Member so wishes, to move with leave of Council the remaining part of the motion.

12.4 Motion Set Out in Agenda

- (a) The Chief Executive shall set out in the Summons for every meeting of the Council all motions of which notice has been duly given, and notice of all business which in the judgement of the Chief Executive requires to be brought before the Council.

¹⁹One to the Labour Group, one to the Conservative Group, one to be shared on a rota agreed by the other political groups.

²⁰ Where submitted, the first White Paper considered will be that submitted by the Conservative Group

- (b) The business under any notice upon the Council Summons shall not be proceeded with in the absence of the Member or Members of the Council in whose name or names it stands, unless they have given authority in writing for it to be taken up by some other Member or Members of the Council, or it is business which, by law, the Council must transact or business emanating from a committee the notice whereof stands in the name of the Chair of that committee in which latter case the resolution may be moved, without authority in writing, by some other Member of the committee.

13.0 MOTIONS/AMENDMENTS

13.1 Motions and amendments requiring notice

- a) Except as set out in Rule 13.2 below, and as provided in Rule 14.8, no amendment to a motion (including an amendment to refer back any business for further consideration) shall be moved at any meeting of the Council unless notice thereof in writing setting out the amendment and signed by the Member or Members giving it, has been received by the Chief Executive:
- no later than 10.00am on the working day before the commencement of the meeting; or
 - no later than 10.00 am on the third working day after the issue of the Summons if the amendment is to the Budget Motion.

13.2 Motions without notice

The following motions and amendments may be moved without notice:

- (a) appointment of a Chair of the meeting at which the motion is made;
- (b) in relation to the accuracy of a report, minutes or recommendation before Council;
- (c) to change the order of business in the agenda;
- (d) that leave be given to withdraw an item of business including a motion or amendment;
- (e) that the Council proceed to the next business;
- (f) that the question be now put;
- (g) that the debate be adjourned;
- (h) that the meeting be adjourned
- (i) authorising the sealing of documents;
- (j) suspending Council Procedure Rules, in accordance with Rule 22.1;

- (k) motion to exclude the press and public in accordance with the Access to Information Rules;
- (l) that a Member named under Rule 20, be not further heard or leave the meeting;
- (m) giving consent of the Council where its consent is required by this Constitution; and
- (n) that a communication be referred to the appropriate Committee

14.0 RULES OF DEBATE

14.1 Period Permitted for Speeches

Except by the leave of Council (and as follows);

- a. A Member may address Council under the Communications item for up to 3 minutes.
- b. A Member moving a White Paper motion may speak for up to 5 minutes.
- c. A Member seconding a White Paper motion may speak for up to 4 minutes²¹,
- d. A Member may speak for up to 4 minutes when contributing to, or summing up on, White Paper debates.
- e. A Member moving any other motion may speak for up to 4 minutes.
- f. A Member moving any amendment may speak for up to 4 minutes.
- g. An Executive Board Member or other such Member as may be determined appropriate, may speak for up to 6 minutes²² when summing up on comments made on Minutes.
- h. An Executive Board Member responsible for the section of the minutes to which an amendment (reference back) relates shall have 3 minutes to comment as the last speaker in the debate on the amendment (reference back).
- i. The Leader of Council may speak for up to ten minutes when summing up on the Minutes.

²¹ A Member when seconding a White Paper motion, or an amendment to a White Paper Motion, may reserve that speech until a later period of the debate.

²² Where the Executive Board Member is the Leader of Council the time available for summing up on his/her portfolio shall be 5 minutes.

- j. A Member contributing to, or summing up on, any business other than set out above, may speak for up to 3 minutes.
- k. On resuming an adjourned debate, the Member who moved its adjournment is entitled to speak first for up to 3 minutes.

14.2 No Speeches Until Motion Seconded

All other motions or amendments shall not be discussed unless it has been proposed and seconded.

14.3 Right to require motion in writing

Unless notice has already been given in accordance with Rules 12.1 or 13 it shall be put into writing and handed to the Lord Mayor before it is further discussed or put to the meeting.

14.4 Content of Speeches

Members shall direct their speech to the question under discussion, a personal explanation or a point of order.

14.5 When a Member May Speak Again

A Member who has spoken on any motion shall not speak again whilst it is the subject of debate except:

- (i) if the motion has been amended since the Member last spoke, to move a further amendment
- (ii) in exercise of a right of reply
- (iii) to raise a point of order in accordance with Rule 14.15
- (iv) to make a personal explanation in accordance with Rule 14.16

For the purpose of this Rule only, comments on the minutes in each portfolio section of the Executive Board and each committee moved under Rule 2.2(i) shall be regarded as being comments upon separate motions and such comments shall be relevant to such section of the minutes as are under debate.

14.6 Amendments to Motions

- (a) An amendment must be relevant to the motion and will be to:-
 - (i) refer a subject of debate to an appropriate body or individual for consideration or reconsideration;
 - (ii) leave out words;

- (iii) leave out words and insert or add others; or
- (iv) insert or add words,

provided that such omission, insertion or addition of words shall not have the effect solely of negating the motion.

- (b) Subject to Rule 14.6(c), only one amendment may be moved and discussed at any time. No further amendment shall be moved until the amendment under discussion has been disposed of.
- (c) Amendments to White Paper motions shall be moved and discussed in the order in which notice thereof has been given and the voting thereon shall be taken after the winding-up speech of the mover of the original motion.

14.7 Amendments (Reference Back) to a Motion to receive the Minutes

- (a) Only one amendment may be moved to any given minute under a motion to receive the minutes. This shall be one to request the decision-maker to reconsider the decision.
- (b) The Executive Member or Chair responsible for the section of the minutes to which the amendment relates shall have 3 minutes to comment as the last speaker in the debate on the amendment in addition to his/her rights under Rule 14.1(g). In the event that the amendment is the sole matter discussed under the given section of the minutes then the six minutes allowed under Rule 14.1(g) shall be applied.
- (c) The vote will be taken on the amendment before proceeding to comments on that section of the minutes.

14.8 Further Amendments

- (a) If any amendment is lost, other amendments may be moved on the original motion provided that, where necessary, due notice has been given in accordance with Rule 13.1.
- (b) If an amendment is carried, the motion as amended takes the place of the original motion upon which any further such amendments may be moved but this does not prevent any further amendments being moved by references to the wording of the original motion.
- (c) If a Member wishes to move a second or further amendment and has not given due notice thereof where required in accordance with Rule 13.1 the Member shall give notice of the proposed amendment during the discussion on the first or other earlier amendment and, subject to the consent of the Lord Mayor (which question shall not be open to discussion), may move this amendment at such time as the Lord Mayor shall decide. Subject to this, all amendments shall be considered in the order in which notice has been given.

14.9 Alteration of Motion

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

- (a) alter a motion of which that Member has given notice; or
- (b) with the further consent of the seconder, alter a motion which that Member has moved

if (in either case) the alteration is one which could be made as an amendment thereto.

14.10 Withdrawal of Motion or Minutes

A motion or amendment shall not be withdrawn except with the consent of the seconder and of the Council. There shall be no discussion upon an application to withdraw a motion or amendment but any Member shall be at liberty to move that the leave applied for be given and the Council without discussion shall vote thereon.

14.11 Right of Reply

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

14.12 Motions that May Be Moved During Debate

When a motion is under debate no motion shall be moved except the following:-

- (a) to amend the motion;
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to proceed to the next business;
- (e) that the question be now put;
- (f) that a Member be not further heard;
- (g) by the Lord Mayor under Rule 20 that a Member leave a meeting;

- (h) to exclude the press and public in accordance with the Access to Information Procedure Rules; or
- (i) to give consent to the withdrawal of a motion or amendment.

14.13 Closure Motions

- (a) A Member may move, without comment, at the conclusion of a speech of another Member,

- (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

on the seconding of which the Lord Mayor shall proceed as set out in paragraphs (b), (c) and (d) below.

- (b) If a motion to proceed to the next business is seconded, the Lord Mayor will first give the mover of the original motion a right of reply in accordance with time limits for speaking set out in Procedure Rule 14.1. The Lord Mayor will then put to the vote the motion to proceed to the next business.
- (c) If a motion that the question be now put is seconded, the Lord Mayor will first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion a right of reply in accordance with time limits for speaking set out in Procedure Rule 14.1 before putting a motion to the vote.
- (d) If a motion to adjourn the debate or the meeting is seconded, the Lord Mayor shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply on that occasion and no amendment to the motion shall be permitted unless it relates to the time of adjournment.

14.14 Resumption of Adjourned Debate

On resuming an adjourned debate, the Member who moved its adjournment is entitled to speak first.

14.15 Points of Order

A Member may raise a point of order at any time and will, with the consent of the Lord Mayor, be entitled to be heard immediately. A point of order may relate only to an alleged breach of these Council Procedure Rules or statutory provision. The Member must specify the Rule or statutory provision and the way in which s/he considers it has been broken. The Lord Mayor's ruling is final.

14.16 Personal explanation

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

14.17 Lord Mayor's Ruling Final

The ruling of the Lord Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

14.18 Interpretation of Council Procedure Rules

The ruling of the Lord Mayor as to the construction or application of any of these Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council and is final.

15.0 RESCINDING RESOLUTIONS OF COUNCIL

- 15.1 No resolution of the Council shall be rescinded or varied, except upon motion made on a notice which shall refer to the resolution sought to be rescinded or varied. Provided that this Rule shall not apply to motions moved in pursuance of a recommendation by the Executive Board or a committee established under Rule 1.1(j) or a sub-committee thereof.

16.0 VOTING

16.1 Majority

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

16.2 Casting Vote

At any meeting of the Council or a committee established under Rule 1.1(j), or a sub-committee thereof, the Chair shall, in case of an equal division of votes have a second or casting vote.

16.3 Show of Hands

- (a) Unless a recorded vote is demanded under Rules 16.4 and 16.5, the Lord Mayor will take the vote by show of hands or if there is no dissent, by the affirmation of the meeting.
- (b) The result of a vote by show of hands will be announced provisionally by the Lord Mayor who will then allow a further reasonable period for any two Members to requisition a recorded vote. If any such requisition is made, the

show of hands shall be disregarded and the voting will be recorded to show how each Member present voted.

- (c) If no such requisition is made before the Lord Mayor announces the next item of business or the closure of the meeting, as appropriate, the result of the show of hands as announced by the Lord Mayor will there upon become final.

16.4 Recorded Vote

Where a recorded vote is required in accordance with paragraphs (a) or (b) below then the minute of the proceedings shall include a record of the names of persons who cast a vote for the decision or against the decision or who abstained from voting.

A recorded vote is required in the following circumstances:-

- (a) Any vote required to be recorded by law²³, or
- (b) Any vote where, before the vote is taken on any matter before Council, any two Members of the Council demand that the votes are recorded.

16.5 Right to Require Individual Vote to be Recorded

Where immediately after a vote is taken at a meeting if any Member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question, against the question or whether s/he abstained from voting.

16.6 Division Bells

- (a) Where a closing speech has started there will be a single ring of the bell.
- (b) In any situation where it has been agreed that a recorded vote shall be taken, there will be two rings of the bell and at least half a minute will elapse between the end of the final ring and the taking of the vote.

16.7 Voting on Appointments

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

²³ Including but not limited to the requirement to record a vote in relation to a budget decision in accordance with paragraph 11 of Schedule 2, Part 2 of the Local Authorities (Standing Orders) (England) Regulations 2001.

17.0 MINUTES**17.1 Signing the Minutes**

- (a) The Lord Mayor will put the question that the minutes of the previous meeting or meetings of the Council be approved as a correct record.
- (b) No discussion will take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or it is raised then as soon as it has been disposed of, the Lord Mayor will sign the minutes.

17.2 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.

17.3 Form of Minutes

Minutes will contain all motions and amendments in the exact form and order the Lord Mayor put them.

18.0 RECORD OF ATTENDANCE

- 18.1 The clerk for the meeting will record the attendance of all Members present during the whole or part of a meeting.

19.0 EXCLUSION OF PUBLIC

- 19.1 Subject to any statutory prohibitions and to paragraph 19.2 below, meetings of the Council and committees established under Rule 1.1(j) and any sub-committees thereof, shall be open to the public²⁴. This shall be without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.
- 19.2 The Council and committees established under Rule 1.1(j) and any sub-committees thereof may by resolution exclude the press and public from a meeting (whether during the whole part or part only of the proceedings) in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

²⁴ The Recording Protocol: Third Party Recording of Committees, Boards and Panels, set out at Appendix 1 to the Access to Information Procedure Rules applies.

20.0 MEMBERS' CONDUCT**20.1 Standing to Speak**

A Member when speaking at full Council must stand and address the Lord Mayor. If two or more Members rise, the Lord Mayor will call on one to speak and the other or others must sit. While the Member is speaking, the other Members must remain seated unless rising on a point of order or personal explanation. Members shall speak of each other by their titles of "Lord Mayor" or "Councillor" as the case may be.

20.2 Lord Mayor Standing

When the Lord Mayor rises during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

20.3 Member not to be Heard Further

If at a meeting any Member indulges in misconduct by behaving irregularly, improperly, offensively, or by wilfully obstructing the business of the Council, any other Member (including the Lord Mayor) may move "that the Member named be not further heard" and the motion, if seconded will, with the leave of the Lord Mayor, be put and voted on without further discussion.

20.4 Member to Leave the Meeting

If the Member named continues the misconduct after a motion under the foregoing paragraph has been carried, the Lord Mayor shall either move "That the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion) or adjourn the meeting of the Council for such period as the Lord Mayor shall consider expedient.

20.5 General Disturbance

In the event of general disturbance which in the opinion of the Lord Mayor renders the orderly dispatch of business impossible, the Lord Mayor may, without question, adjourn the meeting of the Council for such period as s/he considers expedient.

21.0 DISTURBANCE BY THE PUBLIC

21.1 If a Member of the public interrupts the proceedings at any meeting the Lord Mayor will warn the person concerned. If that person continues the interruption, the Lord Mayor will order their removal from the meeting room.

21.2 In the case of general disturbance in any part of the meeting room open to the public the Lord Mayor may call for that part to be cleared.

22.0 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**22.1 Suspension**

Any Council Procedure Rule except Rule 16.5 and 17.2 may be suspended by a motion made and seconded and carried by a majority of the Members present at the meeting. A motion to suspend in relation to the proposed introduction of an emergency motion²⁵ should include the wording of the motion proposed to be considered. The motion to suspend should not include the reasons why the suspension is being proposed. Suspension is only for the duration of the meeting.

22.2 Amendment

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

23.0 INTEREST OF MEMBERS AND OFFICERS

23.1 Members must comply with the Members' Code of Conduct.

23.2 Directors shall record in a book kept for the purpose particulars of any notice given by an officer of the Council of a personal interest in a contract and each such book shall be open during office hours to the inspection of any Members of the Council.

24.0 MOTIONS AFFECTING COUNCIL EMPLOYEES

24.1 If any question arises at a meeting of the Council or a committee established under Rule 1.1(j) and any sub-committee thereof, open to the public as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council, committee, or sub-committee, has decided whether or not the power of exclusion of the public under section 100A of the Local Government Act 1972 shall be exercised.

25.0 APPLICATION TO COMMITTEES AND SUB COMMITTEES

25.1 All of the Council Procedure Rules apply to meetings of full Council. None of the Rules apply to meetings of the Executive (see Executive and Decision Making Procedure Rules). Only the following Rules apply to meetings of committees and sub-committees:

6.2, 8, 16.1, 16.2, 16.5, 17, 18, 19, 21, 23 - 28.

25.2 References to "Lord Mayor" shall read "the Chair".

²⁵ And all subsequent amendments.

26.0 SUBSTITUTE MEMBERS**26.1 Allocation**

- (a) In relation to each Plans Panel, the Council shall appoint a list of substitute members, comprising all other members of the other Plans Panels, the Development Plan Panel and the Licensing Committee. In addition the list may include any Members, nominated by their group Whip, who are not members of these committees, but have received appropriate training. A nominated member shall be entitled to attend meetings in place of a regular member, subject to the substitute member having received appropriate training.
- (b) In relation to the Member Management Committee, an Executive Member, Deputy Executive Member, Whip or Assistant Whip shall be entitled to attend meetings in place of a regular member of the Committee.
- (c) In relation to the Development Plan Panel, the Council shall appoint substitute Members, comprising all Members of the Plans Panels and the Licensing Committee. A nominated Member shall be entitled to attend meetings in place of a regular Member, subject to the substitute Member having received appropriate training.
- (e)(d) In relation to the Housing Advisory Board, the Council shall appoint substitute members via nominations from group Whips. Each Whip shall nominate one substitute for each member that sits on the Committee.
- (de) In relation to the Corporate Governance and Audit Committee, the Council shall appoint substitute members via nominations from group Whips. Each Whip shall nominate one substitute for each member that sits on the Committee. Whips may not nominate any members that would be excluded from full membership under the provisions of Article 9 of the Constitution.
- (ef) In relation to the General Purposes Committee, an Executive Member, Deputy Executive Member, group leader or deputy group leader, group whip or assistant whip, shall be entitled to attend meetings in place of a regular member of the Committee.
- (fg) In relation to Scrutiny Boards, any non-executive member is eligible to attend in the place of an absent scrutiny board member.
- (gh) In relation to Standards and Conduct Committee, the Council shall appoint substitute members via nominations from group Whips. Each Whip shall nominate one substitute for each member that sits on the Committee. A nominated member shall be entitled to attend meetings in place of a regular member, subject to the substitute member having received appropriate training.
- (hi) In relation to the Health and Wellbeing Board

- the Council shall appoint substitute Members via nominations from group Whips. Each Whip shall nominate one substitute for each Member that sits on the Board; and
- any non-voting representative of each Clinical Commissioning Group and of Healthwatch Leeds appointed by the Health and Wellbeing Board, may substitute for a relevant voting representative.
- the named substitute from the Third Sector can attend and participate in meetings and vote in the absence of the Third Sector member appointed to the Board.

ii) In relation to Community Committees

- Elected members cannot be substituted
- Where a representative from a designated organisation has been co-opted on to the Community Committee, that member can be substituted by another representative from that organisation, subject to the Chair being informed before the meeting of the proposed substitution.

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26.2 Substitution

A substitute member shall be entitled to attend in place of a regular member provided that the Committee Clerk has been notified of this before the meeting begins. Once the meeting has begun, the regular member in respect of whom notification has been received, shall no longer be entitled to attend that meeting as a member of the committee concerned.

26.3 Powers and Duties

A substitute member shall be for all purposes a duly appointed member of the committee to which s/he is appointed as a substitute member for the meeting in question. Substitute members will have all the powers and duties of any regular member of the committee, but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

27.0 SPECIAL MEETINGS OF COMMITTEES

- 27.1 The Chair of a committee established under Rule 1.1(j), may call a meeting at any time. A special meeting shall also be called on the requisition of any three Members of such committees delivered in writing to the Chief Executive. The Agenda for such a special meeting shall set out the business to be considered thereat and no business other than that set out in the Agenda shall be considered at that meeting.

28.0 QUORUM OF COMMITTEES AND SUB-COMMITTEES

- 28.1 Four Members (including the Chair) shall form a quorum in committees established under Rule 1.1(j), except as follows:

Council Procedure Rules

- 28.2 The quorum for the Employment Committee shall be two, including one Member of the Executive Board.
- 28.3 The quorum for a meeting of a Community Committee shall be satisfied if at least one third of the Elected Ward Members are present, and at least one Elected Ward Member from each ward within the area is present. In the case of those Committees comprised of only two wards, the quorum shall be satisfied if three Members are present and at least one Elected Ward Member from each ward within the area is present.
- 28.4 The quorum for the Licensing Committee shall be as set out in the Licensing Procedure Rules.
- 28.5 The quorum of any sub-committee shall be determined by the appointing committee.
- 28.6 The quorum of the Health and Wellbeing Board shall be four, including one councillor and a CCG representative.
- 28.7 The quorum of the Housing Advisory Board shall be four, including two Councillors and one tenant/leaseholder voting co-opted member.
- 28.8 Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present

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