

Report to: **Development Management Committee**
Date: **13 February 2019**
Title: **Review of Development Management Committee
Procedure Rule 2.5: Voting**
Portfolio Area: **Support Services**
Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **The Committee
recommendation will be presented to the Council
meeting on 21 February 2019**

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RECOMMENDATION

That the Development Management Committee RECOMMEND to Council that either:

- a) Development Management Committee Procedure Rule 2.5: Voting be retained; OR**
- b) Development Management Committee Procedure Rule 2.5 be removed**

1. Executive summary

1.1 The Council is required to formally adopt its Constitution.

1.2 The Audit Committee is responsible for '*maintaining an overview of the Council's Constitution*' and for making any necessary recommendations to the Council.

1.3 The Audit Committee considered its most recent review into the Council Constitution at its meeting on 31 January 2019. In so doing, the Audit Committee recommended approval of an amended version of the

Constitution, subject to the Development Management Committee giving further consideration to the following Procedure Rule:

2.5 Voting

In view of the quasi – judicial nature of much of the business of the Committee there is a general obligation for Councillors to remain for the whole of the debate or to have participated in any previous consideration on any particular application and certainly to refrain from voting if either of these essential requirements have not been achieved.

2. Background

2.1 In considering that a review was now timely, the Audit Committee made reference to points including:-

- the Rule had been adopted before the new Site Inspection process (i.e. whereby inspections are usually carried out before an application is determined by the Committee) took effect; and
- the depth and detail contained within case officer agenda reports.

2.2 This Rule was initially adopted following receipt of a formal complaint whereby an applicant had utilised the Public Participation Scheme at the meeting before their application had been deferred. The Committee will be aware that the Scheme only permits one opportunity for a Supporter and Objector to address the Committee. In this particular instance, a small number of Members had not been in attendance at the first meeting and had missed the applicant's address and the initial case officer presentation. However, these Members proceeded to attend the next meeting (at which the application was determined) and had voted against the proposal.

2.3 In response to the applicant complaining that this process did not constitute good governance, the Council had sympathy with this view and amended its Procedure Rules accordingly, to address any perception that decision taking was not open and transparent.

2.4 There is a model Code of Conduct produced by 'Lawyers in Local Government' (LLG), that recommends that Members do not take part in a decision where they have not heard all of the information, particularly the case officer recommendation. The LLG model is considered to be an example of best practice.

2.5 The Chairman of the Committee has been consulted and has agreed that the Development Management Committee should provide a view, prior to the adoption of the Constitution at full Council on 21 February, 2019, following the most recent review.

3. Outcomes/outputs

3.1 The Council is required to have an up to date Constitution which reflects the law, its working practices together with best practice to ensure that it delivers efficient services and lawful decisions. The Constitution is a living document and changes are made throughout the year when necessary.

4. Options available and consideration of risk

4.1 If the Council is minded to remove this Rule, to mitigate against the governance issues would require implementing such measures as: insisting that Case Officers replicate their presentations at both meetings and removing the current restriction whereby supporters and objectors can only speak once on a planning application.

5. Proposed Way Forward

5.1 The Development Management Committee is asked for their view on whether or not this Rule should be retained and to make a recommendation to Council accordingly.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Local Government Act 2000 requires the Council to have (and to maintain) a Constitution. Only the Council can approve and adopt the Council's Constitution.
Financial	N	There are no financial implications to this report
Risk	Y	<p>There is a risk arising from a failure to review the Constitution and approve the necessary changes because it may lead to unlawful decisions being taken by the Council.</p> <p>By undertaking an annual review of the Constitution the Council mitigates this risk by ensuring that the Constitution is up to date and reflects current practice and law.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		None arising from this report
Safeguarding		n/a
Community Safety, Crime and Disorder		n/a
Health, Safety and Wellbeing		n/a

Other implications		n/a
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Supporting Information

Appendices:

None

Background Documents:

The Council Constitution