

Subject:	Constitution Review		Status:	For Publication	
Report to:	Governance Working Group Council		Date:	22 nd February 2012 29 th February 2012	
Report of:	Director of Business		Portfolio Holder:	Customer Service, Legal and Licensing	
Key Decision:	No – reserved for Full Council	Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>	
Community Impact Assessment:	Required:	No	Attached:	No	
Biodiversity Impact Assessment	Required:	No	Attached:	No	
Contact Officer:	Carolyn Sharples		Telephone:	01706 252422	
Email:	carolynsharples@rossendalebc.gov.uk				

1.	RECOMMENDATION(S)
	That members make the following recommendations to Council:
1.1	That members consider the Council Procedure Rules in relation to paragraphs 12 <i>Motions without Notice at Full Council</i> , 13 <i>Rules of Debate at Council</i> , 14 <i>Debating Motions</i> and 15 <i>Procedure for Amendments</i> and agree the changes detailed in Appendix 1.
1.2	That members consider the requirements for the Notices of Motion Procedure at 11.1 and agree the changes detailed in Appendix 2.
1.3	That members remove the Accommodation Working Group and Car Park Working Group from the Constitution and agree the changes detailed in Appendix 3.
1.4	That the Member Allowances Scheme in Part 6 of the Constitution is amended in accordance with the budget setting decision. (See Appendix 4)
1.5	That the Heritage and Design Champion and Armed Forces Champion is included at 2.07 on page 8. (See Appendix 5)

2. PURPOSE OF REPORT

- 2.1 To review sections of the Constitution and make recommendations to Council on any changes required.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- Failure to maintain and follow an up-to-date Constitution risks legal proceedings being taken against the Council, and risks members of the community being dissatisfied with the action of the Council.

5. BACKGROUND AND OPTIONS

5.1 Council Procedure Rules – section 14 Debating Motions

At the Council meeting 14th December it was requested that the Council Procedure Rules at paragraph 14 be reviewed, particularly in relation to 14.5 *Voting on Motions*.

This paragraph states, “*At the conclusion of the debate the Mayor will ask if there are any amendments to the motion. If there are none the Mayor will then call for a vote on the motion. If there are amendments they will be dealt with as set out in paragraph 15*”.

However, this paragraph of the Constitution cannot be read in isolation as other rules also apply, in particular paragraph 12. *Motions without Notice at Full Council*.

Motions listed in paragraph 12 can be put at any time without notice. This includes “**g) to amend a motion**”. Once an amendment has been moved and seconded the meeting debate takes a new course and the **Procedure for Amendments** at paragraph 15 must then be followed.

The debate therefore moves on to the new amendment. This will mean that even though a member may have reserved their right of reply on the original motion (as detailed in paragraph 14.1 and 14.3) they will only get their right of reply if the amendment is subsequently lost and the original motion returned to for the vote.

To provide clarity on this it is proposed to amend the wording at 14.5 as follows:

“At the conclusion of the debate the Mayor will ask if there are any amendments to the motion. (If an amendment is moved earlier in the debate, the procedures at paragraph 15 apply and there will be no right of reply for the original mover and seconder, unless the amendment is lost and the original motion is returned to). If there are no amendments the Mayor will then call for a vote on the motion. If there are amendments they will be dealt with as set out in paragraph 15”.

A flow chart has also been produced to show how debates progress during amendments. Members are asked to consider the amended paragraph and flow chart. (See Appendix 1)

5.2 Notices of Motion Procedures Review

At present Notices of Motion for Full Council meetings are submitted to the Chief Executive no later than 8 clear days prior to the meeting (12 full days, as clear days do not include weekends or Bank Holidays). However, this does not leave enough time to undertake the necessary checks prior to publication of the Council agenda. To ensure that the S151 Officer and the Monitoring Officer can be consulted prior to publication the following changes are proposed:

- To commence validation the Notice of Motion must be received at least 11 clear days prior to the meeting (15 full days).
 - Whilst the initial notice can be submitted via email, the Notice of Motion Form must be completed and signed by at least 2 members and be with the Chief Executive at least 5 clear days prior to the meeting (8 full days) if it is to be included on the Council agenda.
 - Before the Chief Executive signs off the Notice of Motion for inclusion on the Council agenda it must be verified and commented on by the S151 Officer and Monitoring Officer.
- (see Appendix 2)

5.3 Accommodation Working Group and Car Park Working Group

A review of the Accommodation Working Group and Car Park Working Group in the Constitution has been requested by a member. It was noted that the two groups had been redundant for some time, therefore Council is asked to consider their removal from the Constitution.

Previously these groups met only as and when required e.g. to discuss the Council Chamber move from Hardman Mill to Futures Park etc. If these groups are removed, they will need to be formally reinstated by Council if they are required again in the future.

These groups are referred to on the following pages and members are asked to consider the appropriate deletions: contents page, page 8 and page 82. (see Appendix 3)

5.4 **Part 6 - Member Allowances Scheme**

Each February the Council sets its budget. Part of that budget setting process includes member allowances for the next municipal year. Whilst no changes can be made to the Member Allowances Scheme without a review being undertaken by the Remuneration Panel, for the last 2 years members have agreed to freeze the calculation rate which is based on the Basic Minimum Wage Rate. Following the budget decision in February 2012, Part 6 of the Constitution will require updating to display the basic allowance rates and special responsibility allowances commencing on 1st April 2012 for the next 12 months.

Members are asked to agree that Part 6 of the Constitution be amended in line with any changes made as part of the budget setting process. (see Appendix 4)

5.5 **Inclusion of a Heritage and Design Champion and an Armed Forces Champion**

The Constitution contains details of Member Champions, following the announcement of a Member Champion for Heritage and Design at Cabinet on 29th June 2011 and an Armed Forces Champion at Cabinet on 15th February 2012, the Constitution requires updating at 2.07 on page 8 to include these posts. (see Appendix 5)

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 There are no material financial implications arising from the report.

7. MONITORING OFFICER

7.1 All legal implications are commented upon in the body of the report.

8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

8.1 There are no HR implications arising from the report.

9. CONSULTATION CARRIED OUT

9.1 Statutory Officers, Legal Officers, Council, Governance Working Group and Committee and Member Services.

10. CONCLUSION

10.1 The Council is required by law to implement a Constitution and it is in the interests of the Council to regularly review and update the document.

Background Papers

Document	Place of Inspection
The Constitution of the Council	www.rossendale.gov.uk/constitution

Page 130 - 131**12. MOTIONS WITHOUT NOTICE AT FULL COUNCIL**

The following motions may be moved without notice:-

- a) to appoint a chair 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 a matter to the Cabinet or a Council Committee or an appropriate body or individual;
- e) to receive reports or adoption of recommendations of the Cabinet, Committees or officers and any resolutions following from them
- f) to withdraw a motion;
- g) to amend a motion;
- h) to proceed to the next business;
- i) that the question be now put;
- j) to adjourn a debate;
- k) to adjourn a meeting;
- l) to adjourn the meeting or resolve to continue the meeting in accordance with Article 8.1;
- m) to suspend a particular Council Procedure rule;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) not to hear further a Member named under Rule 20.1 or to exclude him or her from the meeting under Rule 20.2;
- p) to give the consent of the Council where its consent is required by this Constitution;
- q) to extend the time limits for speeches;
- r) to request a recorded vote.

Page 133**13.4 Amendments to Motions**

- a) 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.
- b) If an amendment is not carried, other amendments to the original motion may be moved.
- c) 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.
- d) After an amendment has been carried, if required the Mayor/Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Page 133 - 134

13.7 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) after three hours of the start of the meeting, to approve the remaining business before the Council in accordance with the process set out in Rule 8.1.
- h) to exclude the public and press in accordance with the Access to Information Rules;
- i) not to hear further a Member named under Rule 20.1 or to exclude him or her from the meeting under Rule 20.2.

Page 135 - 136

14 DEBATING MOTIONS

14.1 Motion Moved

1. The mover of the motion may and if he/she so desires must reserve their right of reply.
2. No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

14.2 Right to Require Motion in Writing

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

14.3 Motion Seconded

1. When seconding a motion or amendment, a Member may and if he/she so desires must reserve their speech until later in the debate. Any Member who reserves his/her speech may not speak at the time of seconding the motion.

14.4 Debate

Members will proceed to debate the motion in accordance with the general rules of debate.

14.5 **Voting on Motion**

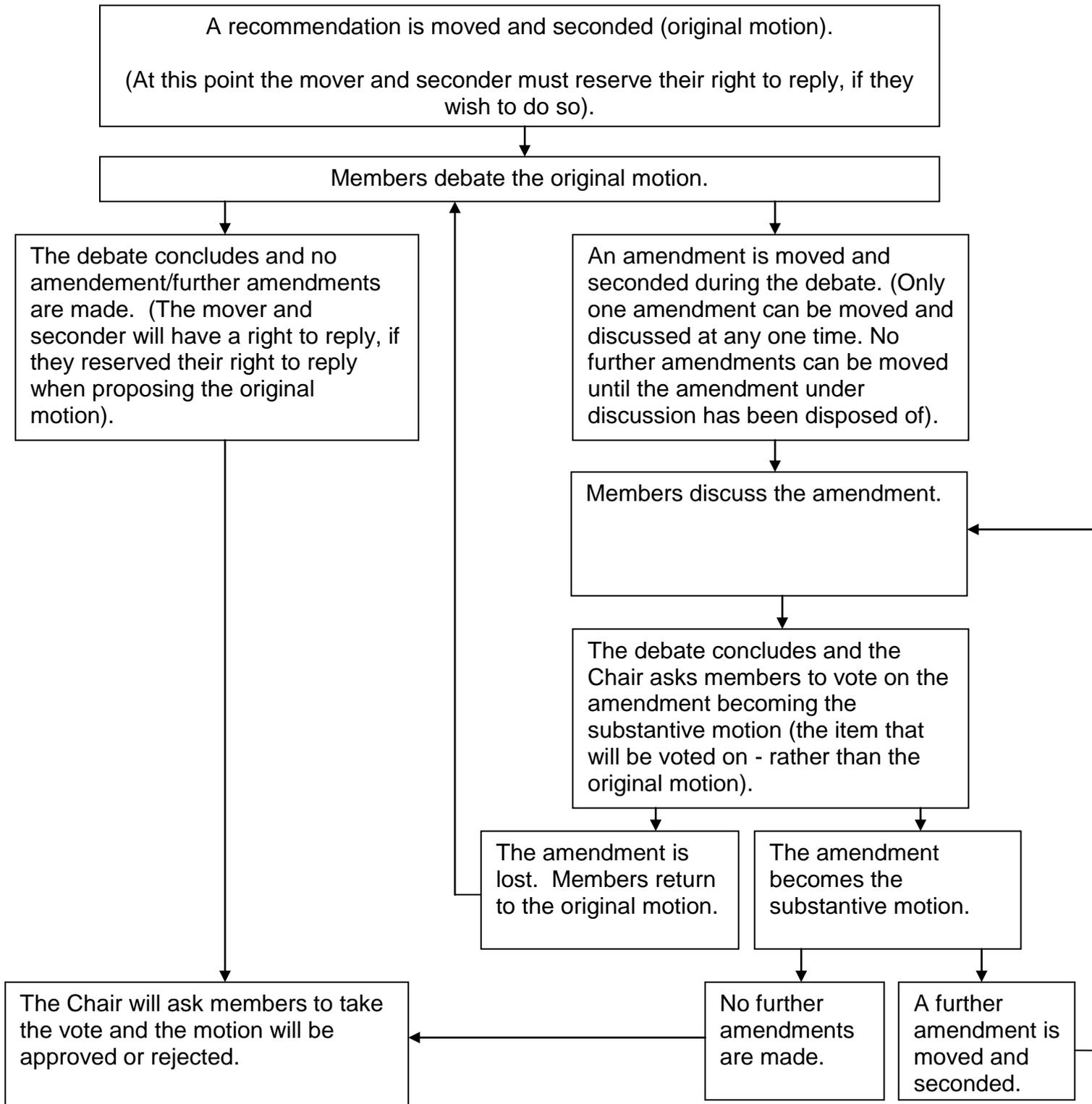
At the conclusion of the debate the Mayor will ask if there are any amendments to the motion. (If an amendment is moved earlier in the debate, the procedures at paragraph 15 apply and there will be no right of reply for the original mover and seconder, unless the amendment is lost and the original motion is returned to).

If there are no ~~amendments~~ the Mayor will then call for a vote on the motion. If there are amendments they will be dealt with as set out in paragraph 15.

15 **Procedure for Amendments**

- 15.1 Once a Member has moved an amendment another Member must second the Amendment or the amendment will fail.
- 15.2 The mover of the amendment will have a right of reply at the conclusion of the debate of the amendment.
- 15.3 Members will proceed to debate the amendment in accordance with the general rules of debate.
- 15.4 At the conclusion of the debate the Mover will reply
- 15.5 The Mayor will then call for a vote on the amendment. If the amendment is lost the Mayor will ask if there are any other amendments and this procedure will repeat as above until all amendments have been dealt with.
- 15.6 If the amendment is carried the amendment then becomes the substantive motion and the Mayor will ask if there are any amendments to that.

Flowchart for Council Meeting Debates and Amendments to Motions



Page 129

11 NOTICES OF MOTION AT COUNCIL

11.1 Notice

Except for motions which can be moved without notice under rule 12, written notices of motion can be submitted to the Chief Executive for inclusion on the Council agenda as follows: ~~written notice of every motion, signed by at least 2 Members, must be delivered to the Head of Paid Service at least eight clear days before the date of the meeting.~~

- Notification of a Notice of Motion must be received at least 11 clear days prior to the meeting (15 full days).
- The Notice of Motion Form must be completed and signed by at least 2 members and be with the Chief Executive at least 5 clear days prior to the meeting (8 full days) if it is to be included on the Council agenda.
- The Notice of Motion must be verified as valid by the S151 Officer, Monitoring Officer and Chief Executive before it is included on the Council agenda.
(see 11.3 for the scope of motions)

(See also the new sample Notice of Motion Form attached)

NOTICE OF MOTION FOR FULL COUNCIL

UNDER PARAGRAPH 11.1 OF THE COUNCIL PROCEDURE RULES

The following Motion to be submitted to Full Council on the date indicated below:-		
Date of Council Meeting:-		
The Notice of Motion to be signed by least two Members of the Council and submitted at least <u>eight-eleven</u> clear working days before the date of the meeting (<u>fifteen full days, as clear days does not include weekends or Bank Holidays</u>).		
Signed:	Date:	
Signed:	Date:	
<u>Notice received and validated by the S151 Officer</u>		
<u>Comments:</u>	<u>Signed:</u>	<u>Date:</u>
<u>Notice received and validated by the Monitoring Officer</u>		
<u>Comments:</u>	<u>Signed:</u>	<u>Date:</u>
Notice received on behalf of the Head of the Paid Service and entered in the book open to Public Inspection		
Signed:	Date:	

Accommodation Working Group and Car Park Working Group Removal

Contents Page

Terms of Reference of the Audit and Accounts Committee	80
Terms of Reference of the Accommodation Working Group	82
Terms of Reference of the Car Parking Group	82
Terms of Reference of the Governance Working Group	82

Page 8

2.06 Members Working Groups

The Council has established the following Members Working Groups:

- ~~Accommodation Working Group~~
- ~~Car Parking Working Group~~
- Civic Matters Working Group
- Governance Working Group
- Grants Advisory Group
- Member Development Working Group

Page 82

~~ACCOMMODATION WORKING GROUP~~

~~Number of Councillors: 7~~

~~Quorum: 3~~

~~Terms of Reference~~

- ~~• To identify criteria to support the selection of a preferred option to meet the Council's longer term accommodation requirements.~~
- ~~• To identify from a long list of options a preferred option to meet the Council's long term accommodation needs, and advise the Cabinet and Full Council accordingly.~~
- ~~• To oversee consultation with the wider community in relation to the Council's Accommodation Strategy~~
- ~~• To oversee the selection of a design for any preferred option, advising the Cabinet and Full Council as necessary.~~
- ~~• To oversee on behalf of the Council the execution of any contract to deliver the solution, advising the Cabinet and Full Council as necessary.~~

~~CAR PARKING WORKING GROUP~~

~~Number of Councillors: 6~~

~~Quorum: 3~~

~~Terms of Reference~~

- ~~• Investigate options in terms of residents parking schemes.~~
- ~~• Monitor disc parking scheme and consider whether length of stay is appropriate to each individual car park.~~
- ~~• Investigate alternative revenue sources.~~
- ~~• Identify new car parks.~~
- ~~• Investigate options for additional facilities for cycle, motorcycle and coach and bus parking for the Borough.~~

GOVERNANCE WORKING GROUP

Number of Councillors: 7

Quorum: 3

Terms of Reference

APPENDIX 4

Changes will be required in the sections highlighted below:

MEMBERS' ALLOWANCES SCHEME

Rossendale Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. This scheme shall have effect for the year commencing on [1st April 2011] for the next 12 months.
2. In this scheme "Councillor" means a Member of the Rossendale Borough Council who is a Councillor;

Basic Allowance

3. Subject to paragraph 6 below, for each year a basic allowance of [£3,342] shall be paid to each Councillor.

Calculation and Indexing of Allowances

14. The allowances in this Scheme are calculated using the Basic Minimum Wage [£5.80*] and are based upon the following formula:-

$(2/3 \times \text{average weekly hours}) \times \text{Basic Minimum Wage} \times 48 \text{ working weeks}$
The average weekly hours worked in 2007/08 is estimated at 18.

*The Basic Minimum Wage is reviewed in October each year, however for 2011/2012 the level of allowances will not increase in line with the new rate in October and the value will remain at £5.80. No increase in rates was agreed by Council in February 2010 and February 2011 and the Basic Minimum Wage rate remains at the October 2009 rate.

The use of Basic Minimum Wage as an index will be reviewed at least every four years, the next date for review being no later than April 2013.

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APPENDIX 4

SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as special responsibilities in respect of which special responsibility allowances are payable in the amounts stated.

LEADERS/DEPUTY LEADERS

£

Leader of the Majority or Largest Group

13,368

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Deputy Leader of the Majority or Largest Group

10,026

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Leader of the Minority or Second Largest Group

6,684

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CABINET MEMBERS

Cabinet Member

6,684

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COMMITTEE CHAIRS

Overview & Scrutiny Committee Management Committee

6,684

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Policy Scrutiny Committee

3,342

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Performance Scrutiny Committee

3,342

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Audit and Accounts Committee

3,342

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Standards

3,342

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Development Control

3,342

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Licensing

3,342

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COMMITTEE VICE-CHAIRS

Standards

1,671

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Development Control

1,671

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Licensing

1,671

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2.07 The Council shall appoint the following Controlling Member Champions from amongst its Members:

Heritage and Design Champion, Armed Forces Champion, Tourism Champion, Equalities Champion, Younger People's Champion and Older People's Champion.