

## Cabinet

Date and Time - **Monday 5 October 2020 – 6:30pm**

Venue - **Remote Meeting**

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### **Councillors appointed to the Committee:**

Councillor D.B. Oliver (Leader), S.M. Prochak (Deputy Leader), C.A. Bayliss, J.H.F. Brewerton, T.J.C. Byrne, K.P. Dixon, K.M. Field, H.L. Timpe and J. Vine-Hall

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## **AGENDA**

### **1. MINUTES**

To authorise the Leader to sign the Minutes of the meeting held on 7 September 2020 as a correct record of the proceedings.

### **2. APOLOGIES FOR ABSENCE**

### **3. ADDITIONAL AGENDA ITEMS**

To consider such other items as the Leader decides are urgent and due notice of which has been given to the Head of Paid Service by 9:00am on the day of the meeting.

### **4. URGENT DECISIONS**

The Leader to give details of those reports that have been referred to the Chairman of the Council to consider designating as urgent, in accordance with Rule 17 of the Overview and Scrutiny Procedure Rules contained within Part 4 of the Council Constitution, and to which the call-in procedure will not therefore apply.

### **5. DISCLOSURE OF INTERESTS**

To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

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**At the discretion of the Leader, the order of the items set out in the agenda may be varied**

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**Tel: 01424 787813**

**Rother District Council aspiring to deliver...  
an Efficient, Flexible and Effective Council, Sustainable Economic Prosperity,  
Stronger, Safer Communities and a Quality Physical Environment**

6. **POTENTIAL APPEAL COSTS - STRATEGY AND PLANNING - RR/2017/1705/P - LAND OFF SPINDLEWOOD DRIVE, BEXHILL** (Pages 1 - 4)
7. **PUBLIC SPACES PROTECTION ORDER (NO1A)** (Pages 5 - 12)
8. **MEDIUM TERM FINANCIAL PLAN - 2021/22 TO 2025/26** (Pages 13 - 14)
9. **SUBSTITUTE SCHEME - 12 MONTH REVIEW** (Pages 15 - 20)

Malcolm Johnston  
Executive Director

Agenda Despatch Date: 25 September 2020

## Rother District Council

<b>Report to:</b>	Cabinet
<b>Date:</b>	5 October 2020
<b>Title:</b>	Potential Appeal Costs - Strategy and Planning – RR/2017/1705/P – Land off Spindlewood Drive, Bexhill
<b>Report of:</b>	Tim Hickling, Head of Service – Strategy and Planning
<b>Cabinet Member:</b>	Councillor Vine-Hall
<b>Ward(s):</b>	St Marks, Bexhill
<b>Purpose of Report:</b>	The purpose of this report is to outline the options and costs related to the defence of the appeal of the Spindlewood Drive planning refusal and seek Cabinet agreement to the strategy.
<b>Decision Type:</b>	Key
<b>Officer Recommendation(s):</b>	That it be <b>RESOLVED</b> : That the Planning Inspectorate are advised that the Local Planning Authority supports the Written Representations format for the defence of the appeal in respect of 'land off Spindlewood Drive, Bexhill,' and that funding of up to £150,000 be set aside from earmarked reserves, to meet costs of defending the appeal.
<b>Reasons for Recommendations:</b>	To ensure that the Council is prepared for the planning appeal.

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## Introduction

1. The purpose of this report is to advise Cabinet that the refusal of planning permission RR/2017/1705/P – Land off Spindlewood Drive, Bexhill has been appealed and to set out the options and potential costs for the defence of the appeal.
2. The appeal relates to the refusal of planning application RR/2017/1705/P, Land off Spindlewood Drive, Bexhill which sought “*outline: residential development for circa 160 dwellings with all matters other than access reserved*”.

This application was reported to and considered by the Planning Committee on 12 March 2020. The recommendation to the Committee was to grant outline planning permission, subject to completion of a Section 106 Agreement. After discussion, the Planning Committee voted to overturn the recommendation and refuse the application.

## Analysis / Details of the Proposals

3. The Applicant has exercised their right to lodge an appeal to the Secretary of State. The Applicant has requested that the Planning Inspectorate consider the appeal by way of the Written Representations format. The Council is required to state its preferred appeal format. The decision regarding whether the appeal is heard by written representations, hearing or public inquiry would be taken by the Planning Inspectorate.

## Options

4. Written Representations – Officers could defend the Council's reasons for refusal by Written Representation (as planning officers recommended that the application should be granted and set out clearly in the report their reasons for this recommendation, it would not be possible, in a public forum – see below - for officers to robustly defend the Council's reasons for refusal). Officers would require the expert advice of a drainage consultant to robustly defend the appeal. This format would have the lowest cost but would enable a robust defence of the appeal. The cost to appoint a drainage consultant is likely to be in the region of £5,000 to £10,000. An additional contingency of a further £10,000 is also suggested in the unlikely event costs are awarded against the Council.
5. Hearing or Public Inquiry – If the appeal was heard at a Hearing or Public Inquiry it would need to be defended by outside consultants with input from Counsel. Previous experience indicates that funding for up to £75,000 could be required to cover the costs of a planning consultant and Counsel. Costs are based on a three day inquiry and would be increased if longer was required.
6. In addition, if the Planning Inspector granted permission, the Appellant could seek to claim their costs for the appeal, on the basis that the appeal would have been avoided if the Council had granted permission. The Appellant's costs would be likely to be a similar amount to the Councils and therefore far higher for a hearing or public inquiry. A Hearing or Public Inquiry would likely cost the Council in the region of £150,000.
7. The Council could decide not to defend the refusal and therefore not incur the costs. However, some costs would be likely (as yet unknown), as the Appellant could seek to recover their costs incurred to date in preparing the appeal.

## Conclusion

8. The appeal of the refusal, of planning application RR/2017/1705/P, Land off Spindlewood Drive, Bexhill requires a consideration of options and agreement of a strategy. The Applicant requests that the appeal is determined by Written Representations. The Local Planning Authority is requested to advise the Planning Inspectorate of its preferred format. The options are Written Representations, Hearing or Public Inquiry. It will be for the Planning Inspectorate to determine the format, but they are likely to agree to Written Representations if both the Applicant and Local Planning Authority support this.
9. All three formats enable the Council to robustly defend the appeal, but a Hearing or Public Inquiry would lead to significant costs for the instruction of consultants and Counsel.

10. The Applicant could seek to claim their costs for the appeal, and these would be significantly higher for the Hearing and Public Inquiry format.
11. This report seeks Cabinet agreement for the Local Planning Authority to request the Written Representations format for the appeal. It also seeks agreement for defence of an appeal in respect of 'land off Spindlewood Drive, Bexhill', should it be heard via Hearing or Public Inquiry, and to agree to funding be set aside to meet these eventualities, including the Applicant's costs should the appeal be successful.

### Financial Implications

12. There are significant financial risks if Rother District Council (RDC) defended the case and lost. If RDC wins the appeal there are still non-recoverable costs. If RDC chose not to defend the appeal there is a risk the appellant will seek to recover costs incurred to date.
13. Members will be aware that if the Appellant wins the appeal against the decision then no New Homes Bonus Grant will be received. Based on the number of properties in the application, it is estimated that £1,069,400 of grant will be foregone.

### Legal Implications

14. The costs indicated do not include our legal services costs.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	Yes		

Executive Director:	Dr Anthony Leonard
Proper Officer:	Malcolm Johnston, Head of Paid Service
Report Contact Officer:	Tim Hickling, Head of Planning and Strategy
e-mail address:	<a href="mailto:tim.hickling@rother.gov.uk">tim.hickling@rother.gov.uk</a>
Appendices:	None
Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None

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## Rother District Council

<b>Report to:</b>	Cabinet
<b>Date:</b>	5 October 2020
<b>Title:</b>	Public Spaces Protection Order (No1A)
<b>Report of:</b>	Richard Parker-Harding, Head of Service Environmental Services, Licensing and Community Safety
<b>Cabinet Member:</b>	Councillor Field
<b>Ward(s):</b>	All
<b>Purpose of Report:</b>	To recommend the making of a Public Spaces Protection Order to control dogs
<b>Decision Type:</b>	Key
<b>Officer Recommendation(s):</b>	It be <b>RESOLVED:</b> That following consultation with the East Sussex County Council, Police, Police and Crime Commissioner a Public Spaces Protection Order be made.

### Introduction

1. In 2016, the Council approved making a Public Spaces Protection Order (PSPO) (No 1) to control dogs (Minute CB16/14 refers). This Order expires in January 2021. In June Cabinet authorised consultation with Town and Parish Councils (Minute CB20/09 refers). Two Parish Councils requested the Order be amended and public consultation on these amendments has been undertaken.
2. The current Order was first adopted in June 2008 (Minute CB08/13 refers) following extensive consultation with Parish and Town Councils and the public. Several iterations to the Order were considered prior to adoption, whereby it was felt a reasonable compromise had been achieved between the requirements of the public and the needs of dog owners. Iden Parish Council and Ewhurst Parish Council have proposed amendments. The Order with the proposed amendments is set out at Appendix A. Background to PSPOs can be found at Appendix C.

### Options

3. To approve the making of an amended Order, considering the proposals of the Parish Councils and the two objections to the amendments from Iden residents. Alternatively, to renew the existing Order for a further 3 years without any amendment.
4. If the amendment is approved to consult East Sussex County Council, the police and Police and Crime Commissioner.

## Conclusion

5. The existing Public Spaces Protection Order (No1) to control dogs expires in January 2021. Consultation has been carried out and an amended Order is proposed. East Sussex County Council, the police and Police and Crime Commissioner will need to be consulted about making the amended Order.

## Financial

6. All costs are contained within existing budgets.

## Public Consultation

7. The Parish Councils carried out their own public consultation on the amendments and the proposed amendments were also publicised on our website. Two letters of objection were received from Iden residents, which are set out in Appendix B. No comments were received from Ewhurst Parish residents.

## Crime and Disorder

8. Considered within the report.

<b>Other Implications</b>	<b>Applies?</b>	<b>Other Implications</b>	<b>Applies?</b>
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	Yes	Consultation	Yes
Sustainability	No	Access to Information	No
Risk Management	No	Exempt from publication	No

Executive Director:	Malcolm Johnston
Proper Officer:	Malcolm Johnston, Head of Paid Service
Report Contact Officer:	Richard Parker-Harding
Appendices:	A - Proposed amended Order B - Letters of objection C - Background to PSPOs
Relevant Previous Minutes:	CB16/14 CB 20/09
Background Papers:	None
Reference Documents:	None

## **DOG FOULING (CLEANING UP REQUIREMENT)**

Any land within the administrative area of Rother District Council which is open to the air, including covered land which is open to the air on at least one side and to which the public are entitled or permitted to have access (with or without payment) of the following descriptions:

- (a) Any highway, footways, footpaths, twittens, promenades, steps and towpaths within the area of Rother District Council and any adjoining verges or ornamental areas, which are maintained at the public expense. This may include some areas of access land.
- (b) All pedestrianised areas within the Rother District Council.
- (c) All Parks, Gardens, Recreation and Sports Grounds, Commons, Amenity Areas of other open spaces owned, occupied or maintained by or on behalf of any of: Rother District Council, East Sussex County Council, Hastings Borough Council, a registered social landlord/housing association, any town or parish council within Rother District, any other public authority or any charity.
- (d) Any cemetery, burial ground or churchyard.
- (e) Any public car park or parking space.
- (f) All beaches and dunes.

**Exempted Land:** Any woodland, marsh or agricultural land and any Access Land as defined in Part I of the Countryside and Rights of Way Act 2000.

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## **DOGS ON LEADS IN DESIGNATED AREAS**

### Part A (all year)

Battle – High Street, Market Square, Market Road and Market Road Car Park, Mount Street from the High Street to the entrance to the Car Park, Abbey Court and the Recreation Grounds at North Trade Road and at Telham

Beckley – Beckley Sports and Recreation Ground; Buddens Green (by Buddens Green Houses) and the School Field (Beckley CE School)

Bexhill – Egerton Park and Manor Gardens

Burwash – High Street

Etchingham – Queens Gardens

Iden- Graveyard and Burial Ground

Northiam – Playing Fields and Village Green, Main Street and Cemetery  
Salehurst and Robertsbridge – The Clapper Recreation Ground (Northbridge Street)  
Robertsbridge

Sedlescombe – Sportsfield

Udimore – Play Area adjacent to Lower Cross Cottages

Part B (1 May to 30 September)

Bexhill – The Promenade (between Groynes 34 and 78) and the Jubilee (Metropole)  
Lawns

**SCHEDULE 2**

Specification of times or periods during which the offence is to apply. The Order applies to the land designated in Part A of Schedule 1 all year and the land designated in Part B of Schedule 1 between 1 May and 30 September.

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**EXCLUSION OF DOGS FROM DESIGNATED AREAS**

**SCHEDULE 1**

Specification/description of land, or lands, to which the Order applies

Part A (all year)

Bowling Greens  
Enclosed Children’s Play Areas  
Sports and Playing Fields under the control of educational establishments  
Ornamental Planted Areas of Public Walks and Pleasure Grounds

Barrack Road Cemetery, Bexhill-on-Sea  
Bexhill Cemetery, Turkey Road, Bexhill-on-Sea  
Hastings Cemetery (part within Rother District)  
Northiam Cemetery  
Rye Cemetery, Rye Hill

Walled Garden at Manor Gardens, Bexhill-on-Sea

Brede – Recreation Ground, Udimore Road, Broad Oak  
Camber – Jubilee Green, Lydd Road  
Crowhurst – George VI Recreation Ground, Hastings Road

Ewhurst- Staplecross Playing Field, Northiam Road and The Herdsman Bequest Playing Field, Village Street, Ewhurst Green

Guestling Playing Field

Iden play area at Iden playing fields, Church Lane TN31 7XD

Iden War Memorial and surrounding garden, Grove Lane TN31 7PX

Sedlescombe – Red Barn Field Nature Park

Staplecross Village Hall lawns, Northiam Road, Staplecross

Rye – The Gun Garden

Westfield – Recreation Ground, Church Lane

### Part B (1 May to 30 September)

Bexhill Beach between Brockley Road and Sea Road.

Camber beach and dunes bounded on the east by an imaginary straight line from the south west corner of 21 The Suttons and extending seawards at an angle of 90 degrees to the low water mark; bounded on the west by an imaginary straight line from the end of the footpath that leads to the shoreline from the central public car park conveniences in Western Car Park and extending seawards at an angle of 90 degrees to low water mark; and bounded on the north by an imaginary line on the boundary of the dunes (marked by location posts) and continuing to 21 The Suttons to the seaward side of the buildings.

That part of the seashore at Pett Level located between the western edge of the slipway adjacent to St Nicholas Church westwards towards Fairlight Cliffs for 150 metres.

That part of the seashore at Dogs Hill, Winchelsea Beach located from the eastern edge of the access steps adjacent to the public convenience and westwards for 558 metres to the western edge of the access steps to the beach.

## **SCHEDULE 2**

Specification of times or periods during which the offence is to apply

The Order applies to the land designated in Part A all year and the land designated in Part B between 1 May and 30 September.

For maps see

[https://www.rother.gov.uk/wp-content/uploads/2020/01/PSPO\\_Dogs.pdf](https://www.rother.gov.uk/wp-content/uploads/2020/01/PSPO_Dogs.pdf)

I am a dog-owning resident of Iden and have some comments on the proposed control order:

- I don't walk my dog *in* the playing fields, rather I use the public footpaths which *cross* the field. If the order goes ahead my access to these public footpaths will be affected.

- When I do walk through the fields I very, very rarely see any dog mess as users seem to be very good at cleaning up after their animals.

- I have never seen any altercations between dogs / between other field users and dogs.

- the children's play area is fenced off from the rest of the field so there is little risk of dogs and children meeting unintentionally.

- I am fairly young and fit but a high proportion of residents who use the field to exercise their pets are older and less mobile. They can park easily and walk their dogs without having to go far themselves. They also use their dog walks as an opportunity to chat with each other which, I'm sure, helps alleviate feelings of isolation and loneliness that can be felt in rural locations by older residents.

My concern would be that this section of the village population will be adversely affected by banning dogs from the playing field and I don't really understand what's brought about this proposal in the first place.

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I write to object to the proposed dog control measures on Iden Playing Fields, i.e. banning dogs from the park.

It is of course disgusting that, as I assume, it is the few dog owners who cannot be bothered to clean up after their dogs who will now spoil it for the many conscientious and responsible dog owners who do. Or are there any other reasons behind the proposal?

There are no comparably peaceful and tranquil parks in the area where we feel as safe to walk our puppy. We have used the park regularly since we moved to Iden in 1986 (but now live in Rye) and are mortified that some people care so little for our community treasures. We have recently picked up dog litter after other dogs a number of times and always go armed with extra dog litter bags just for this reason. Sometimes, it must be said, it is actually fox faeces. Either way, yuck!, but is there anything else we can do to save our park?

We would support any proposed scheme to safeguard it for responsible use by us and our beloved pets.

### Public Spaces Protection Orders (PSPO)

PSPOs are intended to deal with a nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can enjoy public spaces, safe from anti-social behaviour.

A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activity/activities carried out, or are likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

The restrictions specified in a PSPO can be set by the Council; these can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. They can restrict access to public rights of way where that route is being used to commit anti-social behaviour.

PSPOs have a maximum duration of three years but they can last for shorter periods of time where appropriate. Short-term PSPOs could be used where it is not certain that restrictions will have the desired effect, for instance, when closing a public right of way, councils may wish to make an initial PSPO for 12 months and then review the decision at that point. At any point before expiry, the Council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring.

The breach of a PSPO is a criminal offence; however, Enforcement officers can issue a Fixed Penalty Notice (FPN) of up to £100 if appropriate, but a fine of up to £1,000 can be made on prosecution.

More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a large range of behaviours.

### Enforcement

PSPOs can be enforced by council officers, the Police or Police Community Support Officers.

In the past, 16 FPNs (£50 fine) for failing to comply with Dog Controls have been issued, 10 by Coastal Control officers, four by the Police and two by Environmental Health staff.

The level of enforcement should not be used to judge the effectiveness of the PSPO in controlling anti-social behaviour. It can be argued that if there were no controls and signage then more people would act in an anti-social way.

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## Rother District Council

<b>Report to:</b>	Cabinet
<b>Date:</b>	5 October 2020
<b>Title:</b>	Medium Term Financial Plan – 2021/22 to 2025/26
<b>Report of:</b>	Antony Baden – Finance Manager
<b>Cabinet Member:</b>	Councillor Dixon
<b>Ward(s):</b>	All
<b>Purpose of Report:</b>	To advise Members of the deferral of the Medium Term Financial Plan report
<b>Decision Type:</b>	Non-Key
<b>Officer</b>	
<b>Recommendation(s):</b>	It be <b>RESOLVED:</b> That the report be noted.
<b>Reasons for Recommendations:</b>	To improve the robustness of the Medium Term Financial Plan.

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### Introduction

1. The Medium-Term Financial Plan (MTFP) for the period 2021/22 to 2025/26 will be the latest projection of the Council's financial position over the next five-year period ahead of confirmation of Government funding and other factors that will affect its finances.
2. The MTFP will be informed by the 2020/21 budget and forecast out turn so it is crucial that forecast data is as up to date and robust as possible.
3. A report was originally scheduled to be presented to Cabinet at this meeting however, the Assistant Director Resources has requested that it be deferred until the Cabinet meeting on 2 November 2020 for the reasons outlined in paragraphs 4 to 8 below.

### Background Information

4. The 2020/21 revenue budget was approved by Cabinet on the 10 February 2020 but since March the Council has had to respond to the Coronavirus pandemic and national lockdown.
5. The financial impact of the Council's response to the pandemic was reported to Cabinet on the 7 September 2020 as part of the Quarter 1 monitoring report, which detailed the current forecast as at the 30 June 2020.

6. The report also highlighted to Members that the nature of the pandemic meant future forecasts would carry a far higher level of uncertainty than would normally be the case and would probably require significant revisions as the financial year progressed.
7. By mid-October officers will have a much clearer picture of the costs involved and will be in a better position to assess the impact of the pandemic not just on the current financial year but also on the MTFP. This will also provide an opportunity to produce a more robust MTFP for Members to consider and debate.
8. Another advantage of deferring the report is that we will have a better view of how the pandemic has affected our council tax income levels and tax base, which we already know is falling due to the increased numbers of council tax reduction claims. This is crucial because, whilst we do not know whether the Council will have any greater flexibility in respect of Council Tax referendum limits, the likelihood is that the same principles from 2020/21 will apply.

## Conclusion

9. The deferral of the MTFP report to the 2 November 2020 Cabinet meeting will allow officers to present to Members a much more informed position of the Council's five-year financial position and better place them to make informed budget decisions.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Executive Director:	Malcolm Johnston/Dr Anthony Leonard
Proper Officer:	Malcolm Johnston, Head of Paid Service
Report Contact Officer:	Antony Baden
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Appendices:	None
Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None

## Rother District Council

<b>Report to:</b>	Cabinet
<b>Date:</b>	5 October 2020
<b>Title:</b>	Substitute Scheme – 12-month Review
<b>Report of:</b>	Lisa Cooper, Democratic Services Manager
<b>Cabinet Member:</b>	Councillor Oliver
<b>Ward(s):</b>	N/A
<b>Purpose of Report:</b>	To consider a number of minor amendments to the scheme in light of 12-months' experience.
<b>Decision Type:</b>	Non-Key
<b>Officer</b>	
<b>Recommendation(s):</b>	It be <b>RESOLVED:</b> That the Council's substitute scheme be amended as set out at Appendix 1.
<b>Reasons for Recommendations:</b>	To provide clarity in terms of the Chairman of Council and to improve the scheme in light of experience.

### Introduction

1. In September 2019, the Council introduced a new formal Substitute Scheme (SS) for the first time and appointed substitutes to the relevant committees (Minute C19/41 refers). This report brings forward a light-touch review of the scheme 12 months from implementation and recommends several suggested minor amendments / clarifications. As these are relatively minor in nature it is considered that Cabinet can approve these amendments to the Scheme and the Constitution be amended accordingly.

### Practice

2. The SS applies to meetings of the Licensing and General Purposes (L&GP), Overview and Scrutiny (OSC) and Planning Committees (PC) only. Since the scheme was adopted and up until the date at which this report was prepared (17 September substitution has taken place at 3 (out of 4) meetings of L&GP, 2 (out of 8) of the OSC and 7 (out of 11) meetings of PC.
3. The Agendas for these meetings have been amended to incorporate confirmation of apologies and substitutions and minuted accordingly so it is clear to all who is present and able to vote.
4. Under the provisions of the SS, the substantive Member who is unable to attend a scheduled meeting is required to contact their nominated substitute for their Group and notify Democratic Services of their absence and

substitution. This has happened in the majority of cases, with Democratic Services having to prompt / confirm substitution arrangements on a small number of occasions. There have been no instances of Substitute Member turning up to a meeting expecting to take part with no warning. There have been several occasions where the named Substitute has also been unable to attend a meeting in place of the Substantive Member.

5. Since the adoption of this scheme the ability for Members to vote at planning committee meetings is now subject to attendance at the organised officer site visit. Failure to attend the organised site visit precludes any Member of the Planning Committee from voting. It is therefore even more essential for Substantive Planning Committee Members to contact Substitute Members as soon as possible to enable the Substitute to attend both the site inspections and the meeting and vote on their behalf.
6. The temporary introduction of remote meetings has not had an impact on the operation of the scheme.

### **Chairman of Council**

7. As Members may be aware, it is custom and practice at Rother District Council that whilst acting as Chairman of Council, a Councillor is an ex-officio Member on the L&GP, OSC and PC and, whilst can move and second motions, is a non-voting Member on these Committees. It is considered therefore that it would not seem appropriate that whilst acting as Chairman they can also act as a Substitute Member and vote when ordinarily they would be present on the Committee as a non-voting Member. This may cause confusion for the public and other Members and by not allowing the Chairman to be a Substitute will preserve their neutrality whilst acting as Chairman of the Council.
8. It is therefore proposed to amend the SS accordingly to incorporate this provision.

### **Vacancies**

9. A further issue has arisen in respect of vacancies that may occur on committees from time to time due to various reasons including resignations, deaths and councillors no longer being able to commit to committee meetings.
10. Technically, under the current scheme there is no provision for a Substitute Member to replace a vacancy – Substitute Members are only able to replace a Substantive Member who is unable to attend.
11. It is recommended therefore that the scheme be amended to include provision for the appropriate Group Substitute Member to attend and fill a relevant Group vacancy until such times as full Council can appoint a replacement Substantive Member.

## Conclusion

12. To date the scheme has operated well and has enabled the political Groups serving on the Council to be fully represented at meetings at which their Substantive Members have been unable to attend. The proposed amendments set out at Appendix 1, marked in red type, clarify the position regarding the Chairman of Council and proposes a way forward when a committee may have a vacancy.

<b>Other Implications</b>	<b>Applies?</b>	<b>Other Implications</b>	<b>Applies?</b>
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Executive Director:	Malcolm Johnston
Proper Officer:	Malcolm Johnson, Head of Paid Service
Report Contact Officer:	Lisa Cooper, Democratic Services Manager
e-mail address:	<a href="mailto:lisa.cooper@rother.gov.uk">lisa.cooper@rother.gov.uk</a>
Appendices:	1 – Substitute Scheme
Relevant Previous Minutes:	Full Council - Minute C19/41
Background Papers:	None.
Reference Documents:	None.

**Rother District Council – Constitution****Part 3 Responsibility for Functions****9. Appointment of Substitute Members of formal Committees and Sub-Committees**

1. (a) There shall be no substitution of members of the Audit and Standards Committee, Cabinet or Licensing Panels. Members of the Cabinet may not be substitutes on any Overview and Scrutiny Committees.  
  
(b) **The Chairman of Rother District Council may not be a substitute on any Committee.**
2. The political groups may appoint substitute Members from their own group in accordance with this Procedure Rule on committees and subcommittees. Only substitute Members who have undergone related training may be substituted to the Planning Committee.
3. Substitute Members will have all the powers and duties of any ordinary Member of the committee.
4. **In the case of a vacancy on a committee, the appropriate named Substitute can attend and take the vacant seat until such times as a replacement Substantive Member has been appointed by Full Council.**
5. Political Groups will be permitted to nominate one substitute Member for each relevant Committee on which they have an allocated seat(s).
6. Substantive Members must organise their own substitute arrangements and confirm the attendance of a substitute to the Democratic Services Manager or Officer at least one clear working day prior to the commencement of the meeting (unless there are extenuating circumstances such as a medical emergency or some other family-related emergency); notification by electronic mail or telephone will suffice for these purposes.
7. The Chairman of a relevant meeting will seek confirmation of substitute Members present at the “Apologies and Substitutes” Agenda Item.
8. Substitutes arriving after the commencement of the meeting and for which prior notification has not been received will not be permitted to act as a substitute.
9. Where a substantive Member is substituted on a relevant Committee for more than 50% of the scheduled meetings of that Committee in any civic year, Group Leaders will be alerted and consideration given to the removal of the substantive Member.

10. Substitute Members may attend meetings in that capacity only:

- i. to take the place of the substantive Member for whom they are the designated substitute;
- ii. to take the place of a vacant seat for whom they are the designated substitute for that Group;
- ii. where the substantive Member will be absent for the whole of the meeting;
- iii. has undertaken the mandatory training in the case of the Planning Committee; and
- iv. after notifying the Democratic Services Manager no later than one clear working day prior to the commencement of the relevant meeting.

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