

**REPORT OF SERVICE DIRECTOR, HIGHWAYS****CHANGES TO THE COMMITTEE'S CODE OF BEST PRACTICE****Purpose of the Report**

1. To consider changes to update the Codes of Best Practice for the Planning and Licensing and Rights of Way Committees, to be approved separately by each respective Committee.

**Information and Advice**

2. The original Codes of Conduct and Best Practice for the Planning and Licensing and Rights of Way Committees were approved by those committees in January, 2010. The Codes provide that they will be kept under review and a report brought before the Committee/s to advise of any suggested changes. The Rights of Way Committee's Code has subsequently been revised on 21<sup>st</sup> December, 2011, to provide for officers to undertake a number of processes for non-contentious matters allowing the Committee to focus on opposed / contentious matters. This aspect has worked well and no changes to this are proposed.
3. Officers have identified that some changes to the Codes of Best Practice would be helpful as a consequence of changes to the Authority's Constitution and to the Code of Conduct for Councillors. Officers have also therefore taken the opportunity to revisit the current Codes to identify areas of the Code which would benefit from increased clarity by amendments to the layout and wording, to shorten and to streamline the document and to make the core provisions consistent between both committees. Officers have also sought to address areas where procedures and practices can be revised so that the committee can be more efficiently supported by officers as well as to make the Codes of Best Practice (and the incorporated Public Speaking Protocol) clearer and more accessible to members of the public.
4. This has resulted in a substantial rewrite of the Codes, and a revised version is attached as an appendix to this report. Where the changes are in the interests of clarity and accessibility only, and do not substantively change procedures, this report does not list each change. Where significant changes are recommended to the Code or Protocol, these are detailed below.
5. The Codes are essentially the same for both committees subject to some individual variations tailored to each committee. Both are quasi-judicial

committees and both already permit public speaking. As such, both therefore have a Public Speaking Protocol which sets out the relevant arrangements. This Protocol has historically been separate to the Code, but one of the suggested changes is to bring the revised and updated Protocol (as attached) within the Code and it is now attached as Appendix A to the Code.

6. Revised wording has been inserted into Section 2.3 of the Code in order to make clearer what matters will come before the committee for decision and when, as well as (in paragraph 3.4 of the Code) making plainer that the moving and seconding of officer Recommendations is simply a procedural requirement, often undertaken by the Chairman and Vice-Chairman, and does not indicate that a view on the matter has already been formed.
7. The Public Speaking Protocol has been revised in order to make it much more user-friendly to members of the public, and a number of changes are recommended as follows.
8. A key aim has been to increase clarity in relation to when an interest in speaking on an item must be registered (paragraph A2.1 of the Protocol). Members of the public will now, in response to making a written submission on a matter to the Authority, be invited to confirm whether they may wish to speak at the relevant Committee meeting. If they do, they will be contacted nearer the time and invited to register then. This significantly streamlines the process for registering for public speaking and helps to ensure that those parties who are most interested in speaking are given the opportunity to register.
9. While the order of public speakers is set out within the Public Speaking Protocol, an omission was noted in relation to an opportunity for a Member of Parliament to speak on a matter before the Committee, and it is recommended that, where they indicate their wish to speak, they be given a 3-minute slot (as with all other public speakers) towards the end of the public speaking session, before the local Member's opportunity to speak (paragraph A4.3 of the Protocol). Further, in order to correspond with the provisions within the Council's Procedure Rules, the Public Speaking Protocol now refers (at paragraph A6.3 of the Protocol) to the local Member having 20 minutes public speaking time.
10. It is usual for the Committee Chairman, at the close of public speaking, to ask the officer introducing the report to clarify any points arising from the public speaking. It is acknowledged however that, in some circumstances, it may be helpful to the committee for the officer to provide clarification in relation to an individual speaker before public speaking is resumed. The capability for the Committee Chairman to do this is now set out within the Protocol at Paragraph A8.1.
11. The Public Speaking Protocol has always stated that there would be no opportunity for public speaking where a matter was before the committee for information / noting rather than to make a decision (paragraph A1.3 of the Protocol). In relation to the Rights of Way Committee, it has also historically been stated in the Code that where another forum for public speaking is, was or would be available in relation to a matter currently before the committee, e.g. where a public inquiry is held, no public speaking would be permitted (paragraph 18.1). In

order to assist members of the public, the same provision is now proposed to be duplicated in the Public Speaking Protocol (paragraph A1.4) for ease of reference.

12. Additional procedural guidance has been inserted into Paragraphs 5.1-5.5 of the Code in relation to decision-making where committee are minded to decide contrary to officer recommendation, in order that all interested parties are better able to understand this in context. This also ensures that, where this occurs, Councillors have access to a more detailed framework of officer support and advice, and officers are better able to efficiently assist the committee in taking the committee's decision forward procedurally.
13. Appendix C to the Code sets out an overview of the work of the Committee, and this has been shortened and revised so as to make it more accessible to the public. Particular attention has been given to the section on Gating Orders to make it simpler as well as to reflect restructuring within the Council.
14. Section 2.3 of the Rights of Way Committee's Codes of Best Practice sets out which of the Committee's functions (listed in Appendix D to the Code) will prompt a report to come before the Committee, and which will be dealt with by officers on behalf of the Committee. While some rewording has been undertaken in relation to Appendix D, much of this was in order to better reflect where the work undertaken by officers on behalf of the Committee was purely administrative, and to insert some legal provisions which, while not yet in force, would, under the Committee's Terms of Reference, be exercisable by the Committee upon coming into force. As such, only the following substantive changes are proposed:
  - a. The power to register variation of rights of common will no longer require a report to committee as it involves a wholly administrative function in updating the register of recorded common land rights where these are transferred to a successor. It is therefore considered more efficient that this be undertaken simply by officers.
  - b. New reference has been included, for the avoidance of doubt, to the Committee's responsibility for determining whether to take enforcement action in relation to protecting rights of common, on the rare occasions it should fall to this Authority to do so.
15. As quasi-judicial Committees of the Council (i.e. making decisions based on findings of fact rather than policy) the decisions of both Committees can not only be highly controversial, but can also be highly technical. The attached proposed revised Code and Protocol, by being clearer, should help Councillors, Officers and the public alike with decision-making in this area.

### **Other Options Considered**

16. Committee may wish to consider leaving the Code of Best Practice and the Public Speaking Protocol unchanged but revision has been proposed for the reasons set out below.

### **Reason/s for Recommendation/s**

17. Revision of the Codes of Best Practice and the Public Speaking Protocol aids accessibility by the general public and improves the efficient transacting of business by the Committee, reducing opportunities for misunderstanding / ambiguity, and reducing the potential for challenges and complaints.

## **Statutory and Policy Implications**

18. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATION/S**

- 1) It is RECOMMENDED that Committee approves the revised Code of Best Practice (incorporating a revised Public Speaking Protocol) as attached to this report with immediate effect.

**Andrew Warrington**  
**SERVICE DIRECTOR, HIGHWAYS**

### **For any enquiries about this report please contact:**

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### **Constitutional Comments (SLB 27/03/2014)]**

19. The Committee has authority to consider the matters set out in this report.

### **Financial Comments (SEM 27/03/2014)**

20. There are no specific financial implications arising directly from this report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Rights of Way Committee Report on “Changes to the Code of Conduct and Best Practice” of 21<sup>st</sup> December, 2011. (Published)

## **Electoral Division(s) and Member(s) Affected**

- All.