

Report To: The Inverclyde Council

Date: 4 October 2012

Report By: Head of Legal & Democratic Services

Report No: LA/907/12

Contact Officer: Elaine Paterson

Contact No: 01475 712139

Subject: Council's Standing Orders and Scheme of Administration

1.0 PURPOSE

- 1.1 The purpose of this report is to seek agreement to amend Standing Order 63 (c) of the Council's Standing Orders and Scheme of Administration.

2.0 BACKGROUND

- 2.1 In terms of Standing Order 63(c) of the Council's Standing Orders:-

'A member who is not a Member of a particular Committee shall be entitled to attend a meeting of that Committee while there is under discussion any item in which the member has a local or other special interest. Such member shall, with the consent of the Chair, be entitled to participate in the discussion of the item, but shall not be entitled to vote'.

- 2.2 In relation to Planning Applications, the effect of Standing Order 63 (c) is that a member whose constituents are either in favour of or against a Planning Application or other such application may attend and address the Planning Board on behalf of their constituents. The applicant or objectors do not have the right to address the Planning Board, or have a right of reply.

- 2.3 This could be construed as giving the party for whom the member is speaking an advantage, in that the member effectively has the last word. Until recently, members have very rarely taken advantage of this provision.

- 2.4 The Councillors' Code of Conduct and the Guidance issued by the Standards Commission was updated in November 2011, and resulting therefrom the Standards Commissioner is taking the view that representations by a member in relation to a Planning Application may only be made in terms of procedures agreed by the Council:-

"which afford equal opportunity to any parties wishing to make representations to do so".

- 2.5 This opens an argument that the terms of Standing Order 63(c) do not provide "equal opportunity" to an applicant or objectors.

- 2.6 My own view is that the argument outlined in paragraph 2.5 is flawed and in any event it is not within the remit of the Standards Commission to prescribe the procedures of the Council. Nevertheless, it is incumbent on the Council to ensure that its procedures do not leave its members open to challenge, however spurious.

- 2.7 I am therefore recommending that Standing Order 63(c) be amended to read:-

‘A member who is not a member of a particular committee shall be entitled to attend a meeting of that committee while there is under discussion any item in which the member has a local or other interest. **Except where a Committee, Sub-Committee, Regulatory Board, or the LRB is dealing with an item of business in a judicial or quasi judicial capacity**, such member shall, with the consent of the Chair, be entitled to participate in the discussion of the item, but shall not be entitled to vote. **For the avoidance of doubt, where an item of business is one of a judicial or quasi judicial nature, a member who is not a member of the particular committee shall not be entitled to participate in discussion of the item and shall not be entitled to vote.**’

2.8 This change to Standing Orders would not preclude a member from having a letter of representation considered by the relevant committee, as an applicant or objector would have the opportunity to address the issues raised, but the change would bring the General Purposes Board, the Planning Board and the LRB into line with the procedure currently adopted by the Licensing Board.

2.9 An alternative way of dealing with this would be to allow the member to address the committee etc, but where that happens, also to allow the other party the right of reply. Whilst some Councils do adopt this procedure, it tends to lead to Boards and Committees lasting considerably longer and becoming more complex, a result which the Council would be better to avoid.

3.0 RECOMMENDATIONS

3.1 It is recommended that the Council agree the amendments to the Standing Orders and Scheme of Administration as set out in the appendix.

4.0 IMPLICATIONS

4.1 Financial Implications - One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

Financial Implications - Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (if applicable)	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

4.2 Personnel: None

4.3 Legal: As indicated within the report. The Corporate Management Team and the Strategic Leadership Forum have considered this matter and approve of the recommendations.

Proposed Amendments to Standing Orders

63(c) A member who is not a member of a particular committee shall be entitled to attend a meeting of that committee while there is under discussion any item in which the member has a local or other interest. **Except where a Committee, Sub-Committee, Regulatory Board, or the LRB is dealing with an item of business in a judicial or quasi judicial capacity,** such member shall, with the consent of the Chair, be entitled to participate in the discussion of the item, but shall not be entitled to vote. **For the avoidance of doubt, where an item of business is one of a judicial or quasi judicial nature, a member who is not a member of the particular committee shall not be entitled to participate in discussion of the item and shall not be entitled to vote.**

(NB all additions are in italics and underlined)