

**Committee: STANDARDS**

**Agenda Item**

**Date:** 23 November 2009

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**Title: ORDER OF THE COUNCIL AGENDA**

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Item for decision

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### Summary

1. This report comments upon the practice of public speaking at meetings of the council and its committees and the impact which the order of the council agenda may have upon the ability of members with prejudicial interests to speak.

### Recommendations

2. That members determine what recommendations (if any) they wish to make to Full Council in the light of the contents of this report.

### Impact

- 3.

Communication/Consultation	It will not be suggested that the public should in future be prevented from speaking.
Community Safety	None.
Equalities	None.
Finance	None.
Human Rights	None.
Legal implications	These will be addressed in the body of the report.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

### Situation

4. It has for some time been the practice of this council to permit members of the public to speak at meetings of Full Council and policy committee

meetings. Fifteen minutes is set aside for that purpose. Initially this arrangement did not extend to meetings of the Development Control and Licensing Committee as it then was.

5. Subsequently public speaking was extended to include Development Control. At meetings of the Development Control Committee members of the public are able to speak with regard to particular applications when those applications come up for consideration. Members of the public are limited to one for, one against and the applicant or his or her agent per application. In addition a representative of the local town or parish council may also attend and speak.
6. The position is different with regard to Licensing. The Licensing Committee performs both a policy and regulatory function. In terms of its policy functions, it follows the same procedure as Full Council and the policy committees. In terms of its regulatory functions for hearings under the Licensing Act 2003 and Gambling Act 2005, only responsible authorities and interested persons may attend and speak and only if they have made relevant representations during the consultation period. For matters dealt with under the Local Government (Miscellaneous Provisions) Act 1976 (taxis) members of the public could only speak if they were called to give evidence by the council or the subject of a hearing.
7. Members will recall that prior to the adoption of the current Code of Conduct a member with a prejudicial interest was required to withdraw from the room whilst a matter relating to that interest was discussed. The current Code of Conduct contained a significant variation to that restriction. Paragraph 8.2 of Uttlesford's Code of Conduct states that 'where you have a prejudicial interest in any business of your authority you may attend a meeting ... but only for the purpose of making representations, answering questions or giving evidence relating to the business *provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.*
8. The agenda for a meeting of the council or its policy committees is drawn in such a way as to seek to separate out the public speaking part of the meeting from the meeting proper. The summons to the meeting states that the meeting will commence at 7.45 pm or at the conclusion of the questions and answer session, whichever is the later. It then states 'commencing at 7.30 pm there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days prior notice'. The agenda for the meeting appears after the Chief Executive's signature commencing with apologies for absence and declarations of interest.
9. It is arguable based upon this order of business that at meetings of the council and committees (other than Development Control) the public do not have a right to speak at meetings. If that is the case, members with a prejudicial interest would not have the right to address the meeting and

would be required to leave the room as soon as an item in which they have a prejudicial interest comes under consideration.

10. Some authorities positively seek to make the distinction between that part of the meeting where members of the public may address the council or a committee and that part of the meeting when official council business is being dealt with. For example, the Development Control Committee of another authority within Essex maintains the distinction between a public meeting (in which the public could participate) and a meeting open to the public by actually adjourning the meeting so that members of the public can speak on applications. Members with prejudicial interests are also allowed to speak during the adjournment but must withdraw from the chamber (under that council's constitution) having spoken.
11. The current order of the Council agenda does lead to some uncertainty as to the ability of members with prejudicial interest to speak. Options which members may wish to consider for recommendation to Full Council are:
  - a) In the light of the risk assessment contained in this report, do nothing.
  - b) To recommend that where a member has a prejudicial interest in an item on the agenda and wishes to speak with regard thereto that the member must speak during the public speaking part of the meeting before the meeting proper is called to order. This option would acknowledge that the public do not have the right to speak during a formally held meeting which means that the member would then have to leave the room as soon as the item came up for consideration and could not be called back to answer further questions without resorting to an artificial device such as adjourning a meeting for that purpose.
  - c) Recommending a change in the order of the agenda so that the public speaking session clearly falls in the official part of the meeting allowing members of the public up to 15 minutes after apologies for absence and declarations of interest. This would also have the advantage of prompting members to declare interests if a member of the public should raise an issue in respect of which such an interest exists.

## Risk Analysis

12.

Risk	Likelihood	Impact	Mitigating actions
A member with a prejudicial interest is reported to the Standards Committee for a breach of	1 - An interest cannot be prejudicial unless it affects the financial well-being of the member or a relevant person or	4 - If a member were to be held to a breach of the Code of Conduct that	In the event that the Committee decides not to recommend a change in the order of the council's agenda, the Committee should give a clear indication that it regards the current order

<p>the Code of Conduct having spoken at a meeting where such an interest exists.</p>	<p>relates to the determination of an approval, consent, licence, permission or registration in relation to a member or a relevant person. The provisions for the public to speak at Development Control are on any interpretation compatible with the Code of Conduct. Members of the Council also have the same rights as members of the public in relation to regulatory matters dealt with by the Licensing Committee. It is unlikely that a member will have a prejudicial interest in any matter dealt with by other committees of the Council.</p>	<p>member and the Council would suffer reputational damage.</p>	<p>of the agenda as being compatible with the Code of Conduct.</p>
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.