

## Part 4

# Rules of Procedure

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<i>Number</i>	<i>Description</i>
1	<i>Council Procedure Rules</i>
2	<i>Access to Information Procedure Rules</i>
3	<i>Budget and Policy Framework Procedure Rules</i>
4	<i>Cabinet Procedure Rules</i>
5	<i>Overview &amp; Scrutiny Procedure Rules</i>
6	<i>Financial Procedure Rules</i>
7	<i>Contracts Procedure Rules*</i>
8	<i>Officer Employment Procedure Rules</i>
9	<i>Petitions Procedure Rules</i>

*\*Currently under review.*

# COUNCIL PROCEDURE RULES

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## **ABOUT COUNCIL MEETINGS**

- Rule 1 Annual Meeting of Council*
- Rule 2 Ordinary Meetings*
- Rule 3 Extraordinary Meetings*
- Rule 4 Time and Place of Meetings*
- Rule 5 Notice of and Summons to Meetings*
- Rule 6 Chairman of Meetings*
- Rule 7 Quorum*
- Rule 8 Duration of Meetings*
- Rule 9 Minutes*
- Rule 10 Record of Attendance*
- Rule 11 Exclusion of Public*
- Rule 12 Members' Conduct*
- Rule 13 Disturbance by Public*
- Rule 14 Suspension & Amendment of Procedure Rules*
- Rule 15 Interpretation of Procedure Rules*
- Rule 16 Application to Committees and Sub-Committees*

## **DEBATES AND QUESTIONS/STATEMENTS**

- Rule 17 Questions and Statements by the Public*
- Rule 18 Questions and Statements by Members*
- Rule 19 Motions on Notice*
- Rule 20 Motions without Notice*
- Rule 21 Rules of Debate*
- Rule 22 District of Tomorrow Debate*
- Rule 23 Previous Decisions and Motions*
- Rule 24 Voting*

# About Council Meetings (Rules 1 – 16)

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## Rule 1 – Annual Meeting of Council

### 1.1 *Timing & Business*

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:-

- 1.1.1 Elect a person to preside if the Chairman of the Council is not present;
- 1.1.2 Elect a Chairman of Council;
- 1.1.3 Elect the Vice-Chairman of Council;
- 1.1.4 Approve the minutes of the last meeting (provided these are available);
- 1.1.5 Receive any announcements from the Chairman and/or Head of Paid Service;
- 1.1.6 Receive notification of the name of the leader from the majority group. If there is no majority group it will elect the leader;
- 1.1.7 Receive notification from the leader of:-
  - The names, addresses and wards represented by members of the Cabinet;
  - The details of portfolios (if any) allocated to each member of the Cabinet; and
  - Details of any Deputy Cabinet Members appointed in accordance with Article 7.07 and their areas of remit
- 1.1.8 Appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate, to deal with matters which are neither

reserved to the Council nor are Cabinet functions (as set out in Part 3 of the Constitution);

- 1.1.9 Adjourn to enable the appointed committees to elect their respective chairmen and appoint their respective Vice-Chairmen;
- 1.1.10 Agree a scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of the Constitution);
- 1.1.11 Approve a programme of ordinary meetings of the Council for the year; and
- 1.1.12 Consider any business set out in the notice convening the meeting.

## 1.2 ***Selection of Councillors on Committees and Outside Bodies***

At the annual meeting the Council will:-

- 1.2.1 Agree which committees are established for the municipal year;
- 1.2.2 Decide the size and terms of reference for those committees;
- 1.2.3 Decide the allocation of seats to political groups in accordance with the political balance rules;
- 1.2.4 Receive nominations of Councillors to serve on each committee and outside body; and
- 1.2.5 Appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## **Rule 2 – Ordinary Meetings**

- 2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting.

Ordinary meetings will:

- 2.1.1 elect a person to preside if the Chairman and Vice-Chairman are not present;
- 2.1.2 approve the minutes of the last meeting;
- 2.1.3 receive any declarations of interest from members (provided these are available);
- 2.1.4 receive questions and statements from, and provide answers to, the public in accordance with Rule 17;
- 2.1.5 receive questions and statements from Members in accordance with Rule 18;
- 2.1.6 receive any announcements from the Chairman, leader, members of the Cabinet or the head of paid service;
- 2.1.7 deal with any business from the last Council meeting;
- 2.1.8 receive reports from the Cabinet and the Council's other committees, groups or panels and receive questions and answers on any of those reports;
- 2.1.9 receive reports about and receive questions and answers on the business of joint arrangements and external organisations';
- 2.1.10 consider motions; and
- 2.1.11 consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committee and Task & Finish Groups for debate.

## **Rule 3 – Extraordinary Meetings**

### **3.1 *Calling extraordinary meetings***

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- the Council by resolution;
- the Chairman of the Council;
- the Monitoring Officer; and
- any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 *Business***

Extraordinary meetings will:

- elect a person to preside if the Chairman and Vice-Chairman are not present.
- receive any declarations of interest from members.
- deal with the business for which the extraordinary meeting was called.

No other business will be dealt with at an extraordinary meeting of the Council.

## **Rule 4 – Time & Place of Meetings**

- 4.1 The time and place of meetings will be determined by the Chief Executive and notified in the summons.

## **Rule 5 – Notice of and Summons to Meetings**

- 5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **Rule 6 – Chairman of the Meeting**

- 6.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, reference to the Chairman also includes the Chairman of committees and sub-committees.

## **Rule 7 – Quorum**

- 7.1 The quorum of a meeting will be one quarter of the whole number of members Provided that in no case shall the quorum be less than three members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **Rule 8 – Duration of Meeting**

- 8.1 Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately.

Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **Rule 9 – Minutes**

### **9.1 *Signing the minutes***

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### **9.2 *No requirement to sign minutes of previous meeting at Extraordinary Meeting***

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **9.3 *Form of minutes***

Minutes will contain all motions and amendments in the exact form and order put by the Chairman.

## **Rule 10 – Record of Attendance**

- 10.1 All members present during the whole or part of a meeting must sign their names on the attendance sheet before the conclusion of every meeting to assist with the record of attendance.

## **Rule 11 – Exclusion of Public**

- 11.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 13 (Disturbance by Public).

## **Rule 12 – Members’ Conduct**

### **12.1 *Standing to speak (unless disabled from doing so)***

When a Member speaks at full Council they must stand (unless disabled from doing so) and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **12.2 *Chairman standing***

When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### **12.3 *Member not to be heard further***

If a Member persistently disregards the ruling of the Chairman by Behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

### **12.4 *Member to leave the meeting***

If the Member continues to behave improperly after such a motion is carried, the Chairman may move either that the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **12.5 *General disturbance***

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

## **Rule 13 – Disturbance by the Public**

### **13.1 *Removal of member of the public***

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

### **13.2 *Clearance of part of meeting room***

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

## **Rule 14 – Suspension and Amendment of Procedure Rules**

### **14.1 *Suspension***

All of these Council Rules of Procedure except Rule 16.6 and 17.2 may be suspended by motion with or without notice if at least one half of the whole number of Members of the Council are present.

Suspension can only be for the duration of the meeting.

### **14.2 *Amendment***

Except where it is in accordance with a recommendation of a committee or the Cabinet any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **Rule 15 – Interpretation of Procedure Rules**

### **15.1 Notwithstanding the provisions of Article 5 of the Constitution the ruling of the person presiding at any meeting as to the**

construction or application of any of these Rules of Procedure, shall not be challenged at that meeting.

### **Rule 16 – Application to Committees and Sub-Committees**

16.1 All of the Council Rules of Procedure apply to meetings of full Council.

Only Rules **4-9, 11-15 (but not 12.1), 18-21, 23 and 24** apply to Meetings of the Cabinet, committees and working groups.

## Debates and Questions/Statements (Rules 17 – 24)

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### Rule 17 – Questions and Statements by the Public

#### 17.1 **General**

Members of the public may make statements or ask questions of members of the Cabinet at ordinary meetings of the Council.

#### 17.2 **Order of questions and length of statements**

Statements will be made and questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

No question shall exceed two minutes duration.

No statement shall exceed three minutes duration.

#### 17.3 **Notice of statements and questions**

Any person making a statement or asking a question is requested to give notice by delivering it in writing or by electronic mail to the Chief Executive two working days before the day of the meeting.

#### 17.4 **Number of statements and questions**

At any one meeting no person may submit more than one statement or 2 questions.

#### 17.5 **Scope of statements and questions**

The Chief Executive may reject a statement or question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;

- is substantially the same as a statement or question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

#### 17.6 ***Making the statement or asking the question at the meeting***

The Chairman will invite the person making the statement or the questioner to make his/her statement or put the question to the Council.

#### 17.7 ***Supplemental question***

A questioner who has put a question in person may also put one supplementary question to his or her original question.

A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 17.5 above.

#### 17.8 ***Written answers***

Any question which cannot be dealt with during public question time, will be dealt with by a written answer and this will be given within 10 working days.

#### 17.9 ***Reference of statement or question to the Cabinet or a committee***

Unless the Chairman decides otherwise, no discussion will take place on any statement or question, but any member may move that a matter raised by a statement or question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

## **Rule 18 – Questions and Statements by Members**

### **18.1 *On reports of the Cabinet or Committees***

A member of the Council may ask the Leader or the Chairman of a committee any question without notice upon an item of the report of the Cabinet or a committee when that item is being received or under consideration by the Council.

### **18.2 *Questions without Notice at Council***

A member of the Council may ask the Leader or any member of the Cabinet any question without notice on any non-operational matter in relation to which the Council has powers or duties or which affect the administrative area of Braintree District Council or part of it or the inhabitants of that area or some of them or which relates to a written response given by the Leader or a member of Cabinet.

### **18.3 *Response to a Question without Notice***

An answer to a question without notice may take the form of:-

- a direct oral answer from the Leader, or at the request of the Leader, from another member of the Cabinet;
- where the desired information is in a publication of the Council or other published work, a reference to that publication;
- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner; or
- where the question relates to an operational matter, the Leader will request that a response be given direct to the questioner by the relevant Chief Officer.

### **18.4 *Statements by Members***

A member may make a statement at ordinary meetings of Council PROVIDED THAT:-

- (a) notice of intention to make a statement together with details of the subject has been given in writing to the

Chief Executive at least 9 working days before the meeting;

- (b) no Member shall make more than one statement at any one ordinary meeting of the Council;
- (c) the period determined by Council for dealing with statements under this Procedure Rule has not expired.

#### 18.5 ***Scope of Statements***

A statement under Rule 18.4 must:-

- (a) be about a matter in relation to which the Council has powers or duties or which affects the administrative area of Braintree District Council or part of it or the inhabitants of that area or some of them;
- (b) not be defamatory, frivolous or offensive;
- (c) not be substantially the same as a statement which has been made at a meeting of the Council in the preceding six months; or
- (d) not (in public session) disclose confidential or exempt information.

#### 18.6 ***Response to Statements***

A response to each statement may be made by the appropriate Cabinet Member or Chairman of a Committee, Group or Panel

#### 18.7 ***Statements by Chairmen***

The Chairman of a Committee, Group or Panel may make a statement at an ordinary meeting of the Council on a key issue arising from the work of his/her Committee, Group or Panel which he/she considers should be brought to the attention of the Council PROVIDED THAT prior notification of the issue to be raised shall first be given to the Chief Executive prior to publication of the agenda for the meeting.

### 18.8 ***Supplementary question***

A member asking a question under Rule 10.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## **Rule 19 – Motions on Notice**

### 19.1 ***Notice***

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least 2 members, must be delivered to the Chief Executive not later than 9 working days before the date of the meeting.

### 19.2 ***Motion set out in agenda***

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### 19.3 ***Automatic reference of motion***

If the subject of any motion comes within the terms of reference of the Cabinet or any Committee of the Council it shall, upon being moved and seconded, stand referred to the Cabinet or appropriate Committee, for consideration and report PROVIDED THAT the motion shall be dealt with at the meeting at which it is brought forward if:-

- the person presiding considers it convenient and conducive to the despatch of business to do so; or
- the motion is signed by at least 6 Members of the Council; and
- the period determined by the Council for dealing with motions under this Procedure Rule has not expired.

#### 19.4 ***Motions not dealt with at the meeting***

A vote will be taken on any motion under consideration immediately upon expiry of the period referred to in Rule 11.3(c). A vote will be taken (without debate) on any motion not debated at the meeting.

#### 19.5 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the area of Braintree District Council or part of it or the inhabitants of that area or some of Them.

### **Rule 20 – Motions without Notice**

20.1 The following motions may be moved without notice:

- to appoint a Chairman of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual;
- to appoint a committee or member arising from an item on the summons for the meeting;
- to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- to withdraw a motion;
- to amend a motion;
- to proceed to the next business;

- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond the 3 hours duration specified in Rule 8;
- to suspend a particular Council procedure rule;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- to give the consent of the Council where its consent is required by this Constitution.

## **Rule 21 – Rules of Debate**

### **21.1 *No speeches until motion seconded***

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **21.2 *Seconders' speech***

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### **21.3 *Content and Length of Speeches***

Speeches must be direct to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes in the case of a mover of a motion and 3 minutes in all other cases without the consent of the Chairman.

#### 21.4 ***When a member may speak again***

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

#### 21.5 ***Right to require motion in writing***

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

#### 21.6 ***Alteration of motion***

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent or otherwise will be signified by voting without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent or otherwise will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

## 21.7 ***Amendments to motions***

(a) An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

(b) 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.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) 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.

(e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 21.8 ***Withdrawal of motion***

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The

meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 21.9 ***The Right to reply***

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right to reply to the debate on his or her amendment.

#### 21.10 ***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) that the meeting continue beyond the 3 hours duration specified in Rule 8;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

### 21.11 **Closure motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### 21.12 **Point of order**

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been

broken. The ruling of the Chairman on the matter will be final.

### 21.13 ***Personal explanation***

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

### 21.14 ***Address to the Council***

Any member of the Council may address the Council for a period of not more than 5 minutes on any matter or subject relative to the Council's business or functions or affecting the general interests of the inhabitants of the District, and which is clearly not the prerogative of the Cabinet or any Committee of the Council, providing that notice of intention to raise such an item is received in writing at the office of the Chief Executive not less than 9 working days before the meeting at which it is to be discussed and subject to such matter being considered by the Chairman of the Council as coming within the purview of this Rule 21.13.

Wherever possible, a notice of intention to address the Council should be accompanied by a paper to be circulated to each member setting out the detail of the proposed address. It will be open to the person presiding to allow any discussion, motion or reference to the Cabinet or a Committee of the Council, arising from an address given under this Rule 21.13.

## **Rule 22 – District of Tomorrow Debate**

### 22.1 ***Calling of debate***

The Leader will call a District of Tomorrow debate annually on a date and in a form to be agreed with the Chairman.

## 22.2 ***Form of debate***

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the District of Tomorrow debate.

## 22.3 ***Results of debate***

The results of the debate will be:

- disseminated as widely as possible within the community and to agencies and organisations in the area; and
- considered by the leader in proposing the budget and policy framework to the Council for the coming year.

## **Rule 23 – Previous Decisions and Motions**

### 23.1 ***Motion to rescind a previous decision***

Subject to the provisions of the Budget and Policy Framework Procedure Rules a motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 20 members.

### 23.2 ***Motion similar to one previously rejected***

Subject to the provision of the Budget and Policy Framework Procedure Rules a motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 20 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### 23.3 ***Disapplication of Rules 23.1 and 23.2***

Rules 23.1 and 23.2 shall not apply to motions moved in pursuance of a recommendation of the Cabinet or a committee.

## **Rule 24 – Voting**

### 24.1 ***Majority***

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

### 24.2 ***Chairman's casting vote***

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

### 24.3 ***Show of hands***

Unless a ballot or recorded vote is demanded under Rules 24.4 and 24.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 24.4 ***Ballots***

The vote will take place by ballot if 3 members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

### 24.5 ***Recorded Vote***

If 3 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

#### 24.6 ***Right to require individual vote to be recorded***

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### 24.7 ***Voting on appointments***

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.