

# AMENDED AGENDA

## STRATEGIC PLANNING, SUSTAINABILITY AND TRANSPORTATION COMMITTEE MEETING



Date: Monday 18 April 2016  
Time: 6.30 pm  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors Burton (Chairman), English,  
Mrs Gooch, Mrs Grigg, D Mortimer,  
Paine, Springett, de Wiggondene and  
Mrs Wilson

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Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Notification of Visiting Members

**Continued Over/:**

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**Issued on Monday 18 April 2016**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact Tessa Ware on 01622 602621**. To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

5. Disclosures by Members and Officers
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information
8. Minutes of the Meeting held on 8 March 2016
9. Presentation of Petitions (if any)
10. Questions and answer session for members of the public
11. Report of the Head of Planning and Development - Maidstone Borough Local Plan: main outcomes of the Regulation 19 consultation and Proposed Changes
12. Report of the Head of Planning and Development - Infrastructure Delivery Plan (April 2016)
13. **Report of the Head of Planning and Development - Neighbourhood Planning Process** **149 - 162**

## Strategic Planning, Sustainability and Transportation Committee

**18 April 2016**

Is the final decision on the recommendations in this report to be made at this meeting?

**Yes**

### Neighbourhood Plan Process

|                                       |   |
|---------------------------------------|---|
| <b>Final Decision-Maker</b>           | Strategic Planning, Sustainability and Transportation Committee |
| <b>Lead Head of Service</b>           | Rob Jarman, Head of Planning and Development                    |
| <b>Lead Officer and Report Author</b> | Cheryl Parks, Project Manager, Local Plan                       |
| <b>Classification</b>                 | Public  |
| <b>Wards affected</b>                 | All Wards   |

#### **This report makes the following recommendations to this Committee:**

1. That the Committee considers and approves the revised protocol for Neighbourhood Planning set out in Appendix A, notably in regard to revised decision making arrangements at Regulation 18 of the Neighbourhood Planning (General) Regulations 2012.

#### **This report relates to the following corporate priorities:**

- Keeping Maidstone Borough an attractive place for all;
- Securing a successful economy for Maidstone Borough – a made Neighbourhood Plan will form part of the Development Plan for Maidstone and will be used in the determining of planning applications for the Neighbourhood Plan area.

#### **Timetable**

| <b>Meeting</b>  | <b>Date</b>   |
|---|---------------|
| Strategic Planning, Sustainability and Transportation Committee | 18 April 2016 |

# Neighbourhood Plan Process

## **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to propose a revised protocol and internal decision-making framework for neighbourhood planning.
  - 1.2 The changes are recommended as a result of experiences of officers and also the North Loose Neighbourhood Plan group and Parish Councils who have recently been through various stages of the process.
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## **2. INTRODUCTION AND BACKGROUND**

- 2.1 On 9 June 2015 this Committee considered an officer report and urgent update relating to neighbourhood planning, and setting out proposed amendments to the internal decision making framework to reflect changes to a Committee system from the previous Executive governance arrangements.
- 2.2 The resulting framework set out more clearly the input required of officers and the decision making stages for Councillors, to enable the process to move forward in what was construed to be a timely manner, whilst offering the comfort to Councillors that they could input at a number of key stages.
- 2.3 At that time, although a number of neighbourhood plan areas were actively progressing Neighbourhood Plans, none had moved significantly through the stages of production toward the end of the process. The majority were still in the very early stages of preparation after area designation (Regulation 7). Four areas (North Loose, Coxheath, Staplehurst and Broomfield & Kingswood) were preparing for or undertaking consultation at the pre-submission stage (Regulation 14).
- 2.4 Both North Loose and Coxheath had previously submitted plans at Regulation 15 which were subsequently withdrawn. The North Loose plan had been consulted on under Regulation 16 and was being prepared for examination when progress was halted by the identification of procedural errors, resulting in its withdrawal and later re-submission. It has now completed the regulatory process and was made at a meeting of Council on 13 April.
- 2.5 There was significant dissatisfaction from Parish Councils in areas that were in the process towards the making of a Neighbourhood Plan and also from Neighbourhood Plan groups with what was perceived as a lack of support provided by Council officers.
- 2.6 Some ten months after that report was considered, there have been a number of notable changes that impact on the neighbourhood planning process.

- 2.7 There has been renewed attention to neighbourhood planning in the Parishes, alongside the further development and progress of the Maidstone Borough Local Plan towards submission to the Secretary of State for Examination in Public. This has been matched with increased Councillor support for the progression of Neighbourhood Plans in their areas.
- 2.8 Nationally, the Government has signalled its intention to continue to promote “localism” and neighbourhood planning. In the early part of 2015, in order to speed up decision making, changes were made to regulations<sup>1</sup> relating to area designation as the Government perceived that Local Planning Authorities were taking too long to determine such applications. Since then, through written ministerial statements and proposals in the Housing and Planning Bill, it has been made clear that, where Local Planning Authorities fail to make decisions on referenda or make unnecessary changes at the Examiner’s report stage (Regulation 18), the Government will intervene.
- 2.9 Proposals put forward in the Housing and Planning Bill, which is in its final stages of reading in the House of Lords, include the following:
- There should be a time period of five weeks (from the date the LPA receive the Examiner’s report) within which the decision must be taken by the LPA on whether to submit a Neighbourhood Plan or Order to a referendum;
  - That LPAs should hold a referendum within ten weeks of the decision that a referendum should be held (or 14 weeks where there is also a business referendum);
  - A Neighbourhood Plan or Order should be brought into force eight weeks from the date of the referendum, unless there are unresolved legal challenges.
- 2.10 Most significantly for Maidstone, several Neighbourhood Plans have advanced considerably through the regulatory stages and lessons have been learnt from the day to day work undertaken by officers in liaising with the Parish Councils and Neighbourhood Plan Groups.
- 2.11 What has become clear, having worked through the agreed framework with Parishes and others, most notably the North Loose Neighbourhood Plan Group, is that some modifications to the framework would greatly assist in the delivery of support from officers and allow the latter stages of the regulations to be met in a more streamlined and efficient manner.
- 2.12 Considering firstly officer support for Parish Councils and others, it became clear that there was insufficient information recorded on the detailed tasks associated with each regulatory stage, and who should be responsible for each task. This also created an opportunity to identify when and where external support from other teams would be required. Although some information was held in a number of different documents, there was no single collated list. This formed the starting point for the revised protocol attached at Appendix A and the subject of the recommendation of this report.

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<sup>1</sup> Neighbourhood Planning (General)(Amendment) Regulations 2015

- 2.13 A key lesson learnt from the progression of the North Loose Neighbourhood Plan was, where possible, to avoid the hiatus caused by the requirement to take reports to this Committee seeking recommendations to Full Council at two of the final three regulatory stages that should ideally follow in relatively quick succession. The regulations<sup>2</sup> use the words “as soon as possible” three times at Regulation 18, 19 and 20 to reinforce the desire for timely decision making.
- 2.14 As the Council only meets quarterly, under the current agreed framework, there is a delay of approximately two months between the agreement for referendum and the making of the plan that could currently only be overcome by the calling of an extraordinary meeting of Council.
- 2.15 At these latter stages, the Parish Council or Neighbourhood Plan Group are in receipt of the Examiner’s findings and naturally keen to test the Plan through local referendum and have it made. Having a delay of two months at the end of a long drawn out process of plan making is frustrating and unwelcome.
- 2.16 This report and the attached revised protocol aim to overcome this hiatus, which can be further exaggerated by periods of elections, or summer holidays, and to set out a clear, unambiguous framework for officers and Councillors that will aid greater support and timely decision making.
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### **3. AVAILABLE OPTIONS**

- 3.1 The Committee could agree the revised protocol as set out at Appendix A which provides a greater level of detail for officers, Parish Councils and Neighbourhood Plan Groups about the stages of preparation and key responsibilities for each task.
- 3.2 The main decision making proposed change is at Regulation 18 stage, whereby the existing arrangements require a recommendation of this Committee to Council that the Examiner’s findings be agreed and, where appropriate, a referendum should be called. On the attached protocol this stage of decision making would be solely the responsibility of this Committee. The involvement of Council would be at the making of the Neighbourhood Plan, post referendum, as required by the Council’s Constitution.
- 3.3 An alternative option for the Committee would be to reject the revised protocol attached at Appendix A and retain the currently agreed decision making framework as ratified through the decision of 9 June 2015 meeting of this Committee.
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<sup>2</sup> Neighbourhood Planning (General) Regulations 2012

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The Committee is recommended to agree to the option set out in paragraph 3.1 and in the main recommendation at the beginning of this report for the reasons as set out in the narrative above.

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#### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The processes and decision making framework have been considered by this Committee at earlier meetings. There is no formal requirement for consultation on the internal processes for neighbourhood planning.
- 5.2 Any Neighbourhood Plan is required to be the subject of at least two rounds of consultation as part of its progress through the regulatory procedures.

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#### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Should the Committee agree to the recommendations of this report, future consideration of neighbourhood plans will be undertaken with regard to the updated protocol and decision making. This will have particular impact on the Neighbourhood Plans for both Staplehurst and Headcorn that are currently at examination but will also benefit others in earlier stages of preparation.

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#### **7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

| <b>Issue</b>                          | <b>Implications</b>  | <b>Sign-off</b>                                       |
|---------------------------------------|--|---|
| <b>Impact on Corporate Priorities</b> | A Neighbourhood Development Plan once made will be part of the development plan for the borough, directly impacting on the Corporate Priorities through the determination of planning applications in the plan area.   | Rob Jarman,<br>Head of<br>Planning and<br>Development |
| <b>Risk Management</b>                | There is limited risk related to changing the decision making process, given the opportunity for any decision of a service committee to be referred if sufficient Councillors consider the need to do so under the constitution. The changes relating to officer task identification reduce the risk of errors and delays. | Rob Jarman,<br>Head of<br>Planning and<br>Development |

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| <b>Financial</b>                             | Elements of the related costs are recoverable through the Logasnet grant system.   | Paul Riley,<br>Section 151<br>Officer &<br>Finance Team                      |
| <b>Staffing</b>                              | There are staffing implications relating to Neighbourhood Planning, including guidance and liaison with parishes, processing of consultations and organisation of referenda. The staffing is undertaken by the Spatial Policy team with assistance from colleagues in Electoral Registration and other teams intermittently. | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Legal</b>                                 | Statute sets out the procedures to be followed in regard to Neighbourhood Planning. The Council is obliged to follow statutory requirements. The proposals in this report underpin and support those procedures.   | Kate Jardine,<br>Team Leader<br>(Planning),<br>Mid Kent<br>Legal<br>Services |
| <b>Equality Impact Needs Assessment</b>      | The needs of different groups are considered throughout the development of the plans.  | Anna Collier,<br>Policy &<br>Information<br>Manager                          |
| <b>Environmental/Sustainable Development</b> | Plans must have regard to sustainability and the natural environment including heritage assets as part of their policies. An assessment for the need for Strategic Environmental Assessment is carried out at an early stage and repeated at key stages of the plans development.  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Community Safety</b>                      | N/A  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Human Rights Act</b>                      | N/A  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Procurement</b>                           | There are no particular procurement requirements or considerations that are not already in place at this stage.  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |

|                         |     |   |
|-------------------------|-----|---|
|                         |     | & Paul Riley,<br>Section 151<br>Officer               |
| <b>Asset Management</b> | N/A | Rob Jarman,<br>Head of<br>Planning and<br>Development |

**8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A: Revised Neighbourhood Planning Protocols

**9. BACKGROUND PAPERS**

There are none

| Plan Stage                                 | Regulatory Stage <sup>1</sup> | Officer Tasks to complete   | Responsible Person  | Committee decision / recommendation / Delegated authority | Outcome  |
|--|-------------------------------|---|---|---|--|
| Submission of request to designate an area | Regulation 5 (or 8)           | <ol style="list-style-type: none"> <li>1. Acknowledge receipt of application</li> <li>2. Check area does not conflict with other designated areas</li> <li>3. If not a Parish Council, check the group applying is the appropriate body to lead neighbourhood planning in that area, and is capable of becoming the designated neighbourhood forum for the neighbourhood area.</li> </ol>   | 1 – 3=Planning Officer  | N/A   | <ul style="list-style-type: none"> <li>• Legitimate application to proceed to consultation on area; or</li> <li>• Formally decline application if conflicts with another designated area or inappropriate group</li> </ul> |
| Publicising an Area Application            | Regulation 6 (or 9)           | <ol style="list-style-type: none"> <li>1. Publish area application on website plus details of how to comment (by email to <a href="mailto:neighbourhoodplanning@maidstone.gov.uk">neighbourhoodplanning@maidstone.gov.uk</a>)</li> <li>2. Arrange local consultation (by email only) to run <b>for minimum 6 weeks</b>.</li> <li>3. Public Notice in local press</li> <li>4. Email all Cllrs and all neighbouring parishes</li> <li>5. Press release (optional)</li> <li>6. Forum to publicise on their website</li> <li>7. Manage comments received through inbox</li> <li>8. Once consultation completed review comments and decide on whether to designate area</li> </ol> | 1-5, 7,8 = Planning Officer (plus web team / Comms)<br><br>6 = Parish Council / Forum rep | N/A   | <ul style="list-style-type: none"> <li>• Publicised application Officer view on whether to designate area</li> </ul>   |
| Formal designation                         | Regulation 7 (or 10)          | <ol style="list-style-type: none"> <li>1. Write formal designation report / refusal report (<b>within 3 weeks of consultation close</b>)</li> </ol>   | 1 = Principal Planning  | Delegated authority is given to the Head                  | <ul style="list-style-type: none"> <li>• Formal designation</li> </ul>   |

<sup>1</sup> The Neighbourhood Planning (General) Regulations 2012

|   |               |  |  |  |   |
|---|---------------|--|--|--|---|
| of Area and publicity for designation                           |               | 2. Post on website with area plan<br>3. Notify Parish Council / forum of decision  | Officer / Team Leader<br><br>2,3 = Planning Officer  | of Planning and Development unless there is a contrary Councillor view in which case the decision is to be made by SPS&T | report / refusal report<br>• Formal publicity of designation  |
| Preparation of draft plan by Parish Council / forum             |               | 1. Assist Parish Council / forum with advice on process / Regulations / content as required<br>2. Meetings as required   | 1, 2 = Planning Officer / Consultant as required   | N/A  | • Draft plan  |
| Local consultation on draft plan, to include MBC as a consultee | Regulation 14 | 1. Upon receipt of draft plan send copy to consultant for SEA / HRA scoping opinion and conformity with policy assessment<br>2. When scoping opinion received send to Natural England; Historic England; Environment Agency for views<br>3. Send views of 3 Statutory consultees back to consultant for report updating<br>4. Copy final scoping report to Parish Council / forum<br>5. If SEA required, Parish Council / forum to carry out prior to formal submission of plan<br>6. Update MBC website<br>7. Provide written representations to the consultation | 1, 2, 3, 4 = Planning Officer<br><br>5 = Parish Council / Forum rep<br><br>6 = Planning Officer / Web Team<br><br>7 = Principal Planning Officer / Team Leader | Delegated Authority to Head of Planning and Development  | • SEA / HRA if required<br>• Parish Council / Forum to update plan and consultation statement after close of consultation |
| Preparation of formal submission plan by Parish Council /       |               | 1. Assist Parish Council / forum with advice on process / Regulations / content as required<br>2. Meetings as required   | 1, 2 = Planning Officer / consultant as required   | N/A  | • Submission plan   |

| forum                                      |               |  |  |   |  |
|--|---------------|--|--|---|--|
| Formal submission of draft plan to council | Regulation 15 | <ol style="list-style-type: none"> <li>1. Acknowledge receipt of submitted documents (Plan; Basic Conditions statement; Consultation statement;)</li> <li>2. Check Regulation 14 consultation was carried out in accordance with Regs re Statutory consultees etc.</li> <li>3. Send revised plan to consultant to see if SEA opinion has changed and conformity with policy assessment</li> <li>4. Once received from consultant, send again to Natural England; Historic England; Environment Agency for confirmation of views</li> <li>5. Send views of 3 Statutory consultees back to consultant for finalised SEA report</li> <li>6. Liaise with Parish Council / forum over suitable dates for consultation to take place</li> <li>7. Plan public consultation – refer to separate list of tasks in Appendix A</li> <li>8. Contact NPIERS and request candidates for examiner</li> <li>9. Agree preferred examiner with Parish Council / forum</li> <li>10. Appoint examiner</li> </ol> | 1-10 = Planning Officer  | N/A<br><br>Appointment of examiner via NPIERS (agreed by signed Procurement Waiver) | <ul style="list-style-type: none"> <li>• Receipt of submission plan</li> </ul>   |
| Public consultation                        | Regulation 16 | <ol style="list-style-type: none"> <li>1. Publicise documents (see Appendix A) on website plus details of how to comment</li> <li>2. Arrange consultation to run for 6 weeks.</li> <li>3. Public Notice in local press</li> <li>4. Email all Cllrs and all neighbouring parishes</li> <li>5. Press release (optional)</li> <li>6. Parish Council/ Forum to publicise on their website</li> <li>7. Manage comments received through inbox; post; portal; <b>consultation to run for minimum 6 weeks</b></li> </ol>  | <p>1 = Planning Officer / Web Team</p> <p>2,4,7, 9 = Planning officer</p> <p>3, 5 = Planning Officer/Comms Team</p> <p>8 = Principal</p> | N/A   | <ul style="list-style-type: none"> <li>• Formal publicity and consultation on the submission plan</li> <li>• SPST report</li> <li>• Report showing reps</li> </ul> |

|  |               |   |  |                |  |
|--|---------------|---|--|----------------|--|
|  |               | <p>8. SPST report outlining MBC comment to Reg 16 (from consultant’s assessment report)</p> <p>9. Once consultation completed review comments run a report summary of representations; print copy of each representation;</p>   | <p>Planning Officer / Team Leader</p> <p>6 = Parish Council/ Forum rep</p>   |                |  |
| Submission of the plan to Examination  | Regulation 17 | <p>1. Send Plan; Consultation statement; Basic Conditions statement; representation hard copies; report summary to examiner</p> <p>2. Liaise as required with examiner / Parish Council / forum</p> <p>3. If a Fact Check report is produced arrange checking with Parish Council / forum</p> <p>4. On receipt of examiners report write committee report to SPS&amp;T recommending course of action (accept report / decline report / accept and make modifications) and if appropriate seek approval for referendum to take place via committee decision.</p> | <p>1, 2 = Planning Officer</p> <p>3, 4 = Planning Officer / Principal Planning Officer / Team Leader</p>   | SPS&T decision | <ul style="list-style-type: none"> <li>• Copies of Plan to Examiner</li> <li>• Examiner’s Report and recommendations</li> <li>• Committee report</li> </ul>  |
| Publication of examiners report and Decision on whether to proceed to referendum | Regulation 18 | <p>1. Publish decision statement on council website and notify Parish Council / forum of outcome</p> <p>2. If agreed, organise referendum - refer to separate list of tasks in Appendix B</p> <p>3. If plan does not pass examination write report to SPS&amp;T Committee noting the plan may not proceed to referendum.</p>  | <p>1 = Planning Officer / Democratic Services Team</p> <p>2 = Planning Officer / Electoral Registrations Team</p> <p>3 = Planning Officer / Principal Planning</p> | SPS&T Decision | <ul style="list-style-type: none"> <li>• If agreed, plan to be modified and referendum to be organised</li> <li>• If not agreed notify Parish Council / forum – Parish Council / forum to decide its next steps</li> </ul> |

|                                  |                                   |   |  |  |   |
|----------------------------------|-----------------------------------|---|--|--|---|
|                                  |                                   |   | Officer / Team Leader  |  |   |
| Referendum                       | Separate Regulations <sup>2</sup> | 1. Hold referendum  | 1 = Electoral Registrations Team   |  | • Referendum                                    |
| Making the plan                  | Regulation 19                     | 1. Write committee report to SPS&T and Full Council recommending the making of the plan ( or refusal if appropriate dependent on referendum outcome)<br>2. Publish decision and copy of the plan on the council website, alongside details of where the plan may be inspected;<br>3. Notify the Parish Council / forum of the outcome | 1 = Planning Officer / Principal Planning Officer / Team Leader<br><br>2 = Planning Officer / Democratic Services Team<br><br>3 = Planning Officer | SPS&T recommendation to Full Council<br><br>Decision of Full Council | • The plan becomes part of the Development Plan |
| Publicise the Neighbourhood Plan | Regulation 20                     | 1. Publicise Neighbourhood Plan on website and where it can be inspected. Inform those involved in the preparation of the Plan that it has been made and where it can be inspected  | 1 = Planning Officer / Web Team  |  | • Formal publicity of Neighbourhood Plan        |

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<sup>2</sup> The Neighbourhood Planning (Referendums) Regulations 2012

Appendix A: Regulation 16 Consultation list of tasks

1. Agree dates for the consultation with Parish Council / forum (**min 6 weeks**)
2. Agree local deposit points for the documents to be viewed during the consultation (at least 1, preferably 2)
3. Ensure there is a meeting of SPS&T within the consultation window to allow for MBC response to be agreed
4. Set up the consultation event in Objective and upload the plan, conditions statement, consultation statement and SEA Screening report
5. Draft a public notice with dates, info on deposit points and how to comment
6. Send public notice to Kent Messenger **by the previous Friday before the start of the consultation** to book a space; raise and send a Purchase Order
7. Use the public notice text to draft a media release and send to Communications for finessing and sending out
8. Identify all neighbouring parishes (both inside and outside the borough) using maps and the information stored on the shared folder.
9. Draft an email to all Councillors and all neighbouring parishes advising of the consultation (again use the public notice text). Send out on the **Wednesday before the consultation starts.**
10. Liaise with the Parish Council / forum in producing publicity posters if required to support the consultation.
11. Arrange the printing and delivery of a copy of the plan, consultation statement and conditions statement for every deposit point. **Make sure these are in place before the start of the consultation.**
12. Advise Gateway / Customer Services of the start of the consultation.
13. Advise the Customer Services Web team of the consultation and request updates to the Neighbourhood Plan pages including a link to the consultation portal
14. Create a written notification for postal consultees and arrange a mail merge via the print room including the posting out of the notifications **on the Monday before the consultation.**
15. Write, circulate and publish a Committee Report for SPS&T outlining the proposed response of MBC to the consultation. **Follow the standard processes in Modern Gov and the Committee Services timetabling protocols.**

Appendix B: Referendum Planning

1. Liaise with Electoral Registration team
2. Ensure approval to hold referendum is in place
3. Provide a copy of the plan area as designated
4. Should ideally be held on a Thursday
5. **There is a 28 day lead in time** from the date of decision to hold the referendum to the poll
6. A detailed timetable will be provided by the Electoral Registrations team
7. Assistance will be required to complete the Information For Voters and the Information Statement