



Terms of Reference for the Rules and Ethics Committee

1. Introduction

Section 160(6) of the *Constitution* provides:

“A municipal council may make by-laws which prescribe rules and orders for:

- a) *Its internal arrangements;*
- b) *Its business and proceedings.”*

Rules of Order is a set of rules for conducting meetings in an orderly manner so as to make decisions effectively, allowing disciplined input and allowing any member to be heard. The Chairperson will use the rules to maintain order and for regulating procedural issues such as validity of meetings, quorums, minutes, voting procedures and order debate with mutual respect among its members. Rules of Order is thus an essential requisite and tool for effective and orderly meetings.

Section 37 (d) and (f) of the Local Government Municipal Structures Act No. 117 of 1998 stipulates that the Speaker of a municipal council “*must maintain order during meetings*” and “*ensure that council meetings are conducted in accordance with the rules and orders of the council*”.

Council on 11 August 2016 by way of resolution number C04/08/16 adopted *Rules of Order for Section 79 and 80 Committees of Council*.

The Terms of Reference in this document set out the working arrangements and list vital information about the committee such as the details of its role, powers and duties, chair and membership and administrative support.

2. Role

The role of the Rules and Ethics committee may require:

- Briefings;
- Considerations of reports;
- Scrutiny of relevant documents;
- Supply of relevant information;
- Physical access to relevant records, books and other documentation;
- Posing questions in council;
- Tracking of inputs, processes, activities, outputs and outcomes against indicators;
- Input from all political parties to be forwarded to this committee for consideration;
- Amending and reviewing Rules of Order when necessary.
- The development of guidelines/frameworks for councilors on Ethics matters
- May request reports on specific court cases involving Council
- May request reports from the Office of the Ombudsman

3. Term

The Rules and Ethics Committee was established by Council on 15 December 2021 resolution C07/12/21. The Terms of Reference was approved by Council on 27 January 2022 resolution C25A/01/22 and shall remain until amended by resolution of Council.

4. Membership

The Committee will comprise of a Chairperson, and members of Council appointed in terms of section 79 (1)(b) and (2)(c) of the *Local Government: Municipal Structures Act No. 117 of 1998 and Regulations* and in accordance with section 160(8)(a) of the *Constitution of the Republic of South Africa, 1996 and Regulations* which requires that such committees be constituted in a manner that allows parties and interests reflected within the Council to be fairly represented. The updated committee membership is reflected in the "All Council committees" membership list available on the City web, via the link below:

<http://cityweb.capetown.gov.za/en/councilonline/Pages/Information.aspx>

The Speaker of Council shall be a standing member of this committee.

5. Responsibilities

Chairperson:

Definition:

A councillor appointed in terms of sect 79(2)(c) of the Local Government: Municipal Structures Act No. 117 of 1998 and Regulations by the Council of the City of Cape Town to serve as a member of the Rules and Ethics Committee

Responsibilities:

- 5.1 Chair the meeting or in his/her absence the Committee will nominate one of its members;
- 5.2 Set the agenda;
- 5.3 Hold the committee members to account;
- 5.4 Exercise overall responsibility for the work program of the committee.

Deliverables

- Performance appraisals of committee members.
- Remedial action plans to enhance the Committee's performance.
- Sign the minutes of meetings of the Rules and Ethics Committee.

Committee member:

Definition:

A councillor appointed in terms of sect 79(2)(c) of the Local Government: Municipal Structures Act No. 117 of 1998 and Regulations by the Council of the City of Cape Town to serve as a member of the Rules and Ethics Committee.

Responsibilities:

- 5.5 Members must be fully prepared for the Rules and Ethics Committee meetings and are expected to attend each meeting in accordance with the Code of Conduct and Rules of Order governing the meetings of Section 79 Committees.

Committee:

The Rules and Ethics Committee generally sets the forum under which a proposal to Council or its committees will be debated. This would include control over amendments to recommendations, for instance, there might be a process in the way in which amendments are decided on or a limit on the number or types of amendments.

Besides control over amendments, the Rules of Order proposed by the Rules and Ethics Committee to Council for adoption, also determines control over debate at Council and meetings by proposing for example the amount of speaking time assigned to each matter on an agenda and ensure in general that meetings of Council and its committees are conducted in an orderly and constructive manner which protects the rights of its members and promotes democratic decision-making.

- 5.6 In accordance with Council's System of Delegations, the Committee will develop and recommend to Council, Rules of Order for Council and its section 79 and 80 Committees.

- 5.7 Will consider and recommend to Council, any revisions to the rules mentioned in 5.6 above which may be referred to it by Council or the chairperson of the Programming Committee.

The Rules and Ethics committee may also consider and make recommendations to Council on the following matters:

- 5.8 Nominations for Civic Honours and Freedom of the City awards
- 5.9 Outside/Private work applications for full-time councillors
- 5.10 Naming and renaming of Council immovable assets in line with the public participation processes (excluding new streets and unnamed streets which are covered by Subcouncil delegation Part 24: 12(1) of the delegations)
- 5.11 Review and propose amendments to the Delegations for Council and its committees
- 5.12 Development of guidelines/ frameworks for councilors on Ethics matters

NB: The Council's System of Delegations document further sets out all general and/or specific delegations of this committee

6. Authority, accountability and reporting

The Rules and Ethics Committee is a committee of Council established in terms of section 79 of the Local Government: Municipal Structures Act No. 117 of 1998. In terms of section 79(2) the municipal Council:

- (a) Must determine the functions of a committee*
- (b) May delegate duties and powers to it*
- (f) May determine a committee's procedure*

- 6.1 The Chairperson must submit minutes of all meetings to the municipal council on a quarterly basis in accordance with the requirements of the System of Delegations.

7. Meeting procedures

7.1 Rules of Order

The *Constitution* provides that:

"A municipal council may make by-laws which prescribe rules and orders for:

- a) Its internal arrangements;*
- b) Its business and proceedings."*

Council on 15 December 2021 by way of resolution number C08/12/21 adopted *Rules of Order for Section 79 Committees of Council*. Such Rules govern the meeting procedures of this committee.

7.2 Quorum

Rule number 7.1:

"The quorum for a meeting of a section 79 Committee is a majority of its members."

7.3 Frequency of meetings:

- 7.3.1 Meetings of the Committee will be held in accordance with the meetings scheduled in the approved Council calendar of meetings.
- 7.3.2 Special Meetings to be called as the need arises in terms of the Rules of Order.

7.4 Meeting: Agendas, Minutes and Logistics

- 7.4.1 Electronic agendas must be distributed at least 72 hours prior to a meeting for preparation purposes. Executive Committee Services will at all times strive to circulate Volume 1 no later than 5 days before the meeting. Any late reports approved by the Chairperson for inclusion on the agenda will form part of subsequent volumes.

- 7.4.2 Executive Committee Services provides secretarial, administrative support and logistical support to the Committee. The relevant line departments provide the Committee with support of a technical nature and are also responsible for secretarial support with respect to any workshops arranged by the Rules and Ethics Committee.
- 7.4.3 The minutes of meetings once confirmed and approved by members of the Rules and Ethics Committee must be signed and each page thereof initialed by the Chairperson and managed in accordance with paragraph 7.4.4. The Chairperson must sign and initial the confirmed minutes within 7 working days after the meeting at which it was confirmed.
- 7.4.4 Appropriate record management of Rules and Ethics Committee activities must be maintained and published subject to Council-approved processes.
- 7.4.5 Legal advisory services to the Rules and Ethics Committee shall be rendered by the City's Legal Services Department and a legal advisor shall be present at all meetings of the committee.

7.5 General

- 7.5.1 The Committee will formalise operational processes, systems and procedures as necessary for the performance of its terms of reference, in consultation with the relevant Executive Director(s) and Executive Services.
- 7.5.2 The Committee uses a schedule of outstanding matters to keep track of the various stages of the Committee's review process with respect to each of the reports or topics under consideration.
- 7.5.3 The Committee must deal with all matters, within its delegations, as instructed by Council. It is therefore important to prioritise the items on the schedule of outstanding matters.

8. Relationship and Interaction

- 8.1 Chairperson will regularly meet with the Speaker of Council as an ex officio member of this committee to discuss issues of concern, for strategic guidance and political direction.
- 8.2 Chairperson will regularly meet with the Executive Director(s) who provide support, advise and assist in ensuring an integrated approach to the management and delivery of Council's priorities and objectives.

9. Performance Evaluation

The Committee will annually report on their performance to Council. Such report will:

- Give account of how the committee executed their assigned functions and responsibilities;
- Clarify and justify their decisions or actions; and
- Explain how the committee went about amending any fault or error found when exercising their oversight role and took steps to prevent recurrence in future.

10. Dispute Resolution

Not applicable - the Rules and Ethics Committee makes recommendations to Council. Council takes the decisions so the dispute resolution application to Council will apply, in terms of the Promotion of Administrative Justice Act.

11. Approval, Amendment, Modification or Variation

These Terms of Reference may be reviewed as deemed appropriate. Amendments to the Terms of Reference are subject to approval by the municipal council and will be applicable from date of approval until amended by the municipal council. The approved Terms of Reference will be published on the municipal website to promote awareness to all stakeholders.