

## Decisions of the Constitution, Ethics and Probity Committee

31 March 2015

Members Present:-

Councillor John Marshall (Chairman)  
Councillor Melvin Cohen (Vice-Chairman)

Councillor Anthony Finn  
Councillor Dr Devra Kay  
Councillor Alison Moore

Councillor Barry Rawlings  
Councillor Joan Scannell

### 1. MINUTES OF LAST MEETING

RESOLVED – that the minutes of the meeting held on 24 November 2014 be approved as a correct record, subject to the amendment of minute item 8 as follows:

“At the invitation of the Chairman, Councillor Moore introduced her Members’ Item.

The Monitoring Officer advised the Committee that the second proposal in the Members’ Item was not required as Members who were the subject of a conduct complaint did have a right of access to the Independent Person and should not have been prevented from having access in previous cases considered by the Group Leaders Panel. On that basis, Councillor Moore agreed that the second proposal should be removed.

Having considered the request set out in the Members’ Item, the Committee voted on the two remaining proposals contained therein.

In relation to the request set out in the Members’ Item to “Reinstate a Standards Committee with an independent Chair (as well as the Independent Persons) and one representative from each of the three political groups” a Member MOVED that the wording be deleted and replaced with “A review of the Standards Committee be undertaken at the end of the 2014/15 municipal year.” The proposal was duly SECONDED. Votes were recorded as follows:

In Favour: 4  
Against: 3  
Abstentions: 0

RESOLVED that:

1. The Committee agree that a review of the Standards Committee be undertaken at the end of the 2014/15 municipal year.
2. The Committee instruct that any councillor subject to a complaint under the Code of Conduct is allowed legal representation.

**2. ABSENCE OF MEMBERS (IF ANY)**

None.

**3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

**4. REPORT OF THE MONITORING OFFICER (IF ANY)**

None.

**5. PUBLIC QUESTION AND COMMENTS (IF ANY)**

None.

**6. MEMBERS' ITEMS (IF ANY)**

None.

**7. CONSTITUTION REVIEW**

The Head of Governance introduced the report and accompanying addendum report.

Councillor Melvin Cohen MOVED an amendment to Responsibility for Functions Annex A (Committees Membership and Terms of Reference) to clarify that theme committees, the Planning Committee and Licensing Committee have responsibility for developing (above inflation) fees and charges for implementation, and that these be reported to Policy and Resources Committee for noting.

Upon being put to the VOTE the proposal was CARRIED. Votes were recorded as follows:

In Favour	4
Against	0
Abstentions	3

Following consideration of the report and addendum report the Committee

**RESOLVED –**

- 1. That the Committee recommend to Council amendments to Responsibility for Functions, Annex A (Committees Membership and Terms of Reference) to:**

- a. Clarify that theme committees have responsibility for developing (above inflation) fees and charges for implementation, and that these be reported to Policy and Resources Committee for noting
  - b. Clarify that the Planning Committee has responsibility to approve land charges fees and charges for those areas under the remit of the Committee
2. That the Committee recommend to Council an amendment to Protocols for Member Officer Relations, 14.3 to add “safeguarding concerns” to the list of issues Members have a duty to raise.
  3. That the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in this the table below and the track change versions attached at Appendix A to Appendix L.
  4. That further work be undertaken to advise the Committee whether further changes to Protocols for Member Officer Relations be recommended taking into account the Council’s new arrangements with external delivery units.

No.	Section	Changes contained within document	Recommendation on to Full Council
1	Article 9, Chief Officers	<p>Amend section 9.01 (b) to reflect the new senior officer structure</p> <p>Updating titles of statutory officers in section 9.01 (c)</p> <p>Create a new section 9.01 (d) to include ‘Other Officers’ in the classification of Chief Officers</p> <p>Amend section 9.05 to reflect new officer responsible for the discharge of statutory functions.</p> <p>Amend section 9.06 to reflect new officer responsible for the discharge of statutory functions.</p> <p>Create a new section 9.08 to enable chief officers (other than those with statutory officer designations) to discharge the statutory functions that sit within their portfolio of responsibility.</p>	Agreed as per report

No.	Section	Changes contained within document	Recommendation on to Full Council
2	Responsibility for Functions, Annex B, Scheme of Delegated Authority to Officers	<p>Amend section 1.11 to reflect new officer post title.</p> <p>Amend section 1.13 to clarify wording around different categories of delegated decisions.</p> <p>Amend delegated authority to the Chief Executive to reflect changes to the Strategic Commissioning Board.</p> <p>Delete responsibilities of Strategic Director for Communities.</p> <p>Create responsibilities for the Strategic Director of Commissioning with authority to discharge any of the functions delegated to the Commissioning Directors.</p> <p>Designate the Commissioning Director for Children &amp; Young People as the statutory Director of Children’s Service and include additional responsibilities as approved in the Commissioning Restructure.</p> <p>Designate the Commissioning Director for Adults &amp; Health as the statutory Director of Children’s Service and include additional responsibilities as approved in the Commissioning Restructure.</p> <p>Add new sections detailing the responsibilities of the Commissioning Director for Environment and the Commissioning Director for Growth &amp; Development.</p> <p>Delete the responsibilities of the Strategic Director for Growth &amp; Environment.</p>	<p>Agreed, subject to adding “Having regard to Section 3 (Delegation of Powers)...” before the description of functions delegated to the Strategic Director for Commissioning and the Commissioning Directors.</p>

No.	Section	Changes contained within document	Recommendation on to Full Council
		Amend the post title of the Director of Public Health to accord with the new title designated in the Commissioning Restructure.	
3.	Responsibility for Functions, Annex B, Scheme of Delegated Authority to Officers	Amend section 1.6 to add the officer decisions prescribed in the regulations to the list of matters where formal reporting of officer decisions will take place	Agreed as per report
4.	Responsibility for Functions, Pension Fund Compliance Statement	<p>Amended section 1.2 of the Pension Fund Compliance Statement to include a reference to the Local Pension Board</p> <p>Add to new section 2.3 to include the council's responsibilities in relation to the Local Pension Board. Option one was agreed by General Functions Committee at its meeting on 23 March.</p> <p>Add a new section 2.4 to detail the responsibilities of the Local Pension Board.</p>	Agreed as per report
5.	Responsibility for Functions, Annex A	<p>Amend the terms of reference of Residents Forums to include the requested changes.</p> <p>Amend the wording relating to post-Forum responses to clarify that further written responses will be provided only where the Forum Chairman has undertaken to provide these.</p> <p>Amend wording to include a provision for Chairmen to accept urgent items at their discretion.</p> <p>Amended wording to give discretion to the Forum</p>	Agreed as per report

No.	Section	Changes contained within document	Recommendation on to Full Council
		Chairman to stipulate when a further written response should be provided to the issue(s) raised.	
6.	Public Participation & Engagement Rules	Amend section 5.2 to remove the restriction around submitting comments/questions at the Licensing Committee.	Agreed as per report
7.	Public Participation & Engagement Rules	Move section 2.3 and create new expanded section 1.4 to outline how public comments and questions will be structured at committees	Not approved.  Agreed that this issue should be added to the matters for future consideration by the Constitution, Ethics and Probity Committee.
8.	Full Council Procedure Rules	Amend section 1 (e)	Agreed, subject to an amendment to 1 (e) to replace the proposed wording with "Noting the appointment of the Deputy Leader of the Council"
9.	Responsibility for Functions, Annex A	Amend the terms of reference of the Community Leadership Committee to include this function	Agreed as per report
10.	Responsibility for Functions, Annex A	Delete 'Health and Safety' from the terms of reference of the Policy & Resources Committee and add to the terms of reference of the General Functions Committee	Agreed as per report
11.	Responsibility for Functions, Annex A	Amend terms of reference of theme committees, the Licensing Committee and Planning Committee to reflect the that those committees have delegated responsibility for agreeing fees and charges within their remit	Agreed amendments to theme committees terms of reference  Delete approval of fees and charges for land charges from the terms of reference of the General Functions Committee and include the terms of reference of the Planning Committee

No.	Section	Changes contained within document	Recommendation on to Full Council
			Add a responsibility to the terms of reference of the Policy & Resources Committee to "To note decisions taken by these committees, the Planning Committee and Licensing Committee on fees and charges within the remit of those committees.
12.	Public Participation and Engagement Rules	<p>Delete section 4.1 as requests to speak could be made on items that are no planning applications or tree preservation orders.</p> <p>Revise section 4.4 to clarify the rules as they apply to planning committees and remove references to Members rights to address committees as these are covered in Meetings Procedure Rules</p> <p>Revise subsequent sections to remove reference to planning committees</p>	Agreed as per report
13.	Meetings Procedure Rules	Add a new section 17 to detail the Council's policy in relation to recording and filming of proceedings at meetings	<p>Not approved.</p> <p>Deferred for consideration at the next meeting of the Constitution, Ethics and Probity Committee.</p>
14.	Access to Information Procedure Rules	<p>Amendments to give effect to the proposed changes</p> <p>Details of the Members Information Management Policy (agreed at the General Functions Committee on 23 March 2015) is appended for Council to note due to the direct link to the Access to Information Procedure Rules</p>	Agreed as per report

No.	Section	Changes contained within document	Recommendation on to Full Council
15.	Protocols for Member Officer Relations	Amendments to support the changes to the Access to Information Procedure Rules and Members Information Management Policy referred to above	Agreed, subject to an amendment to section 14.3 to add "safeguarding concerns" to the list of issues Members have a duty to raise
16.	Responsibility for Functions	Amend section 6.7 to stipulate that non-planning matters can be referred by the Planning Committee	Agreed as per report
17.	Contract Procedure Rules	Amendments to the Contract Procedure Rules to reflect new regulations  Merge Contract Procedure Rules and Procurement Code of Practice.  Subject to the changes being approved by the Committee, delete Procurement Code of Practice as a separately published section of the Constitution	Agreed as per report
18.	Responsibility for Functions	Amend section 6.2	Agreed as per report
19.	Responsibility for Functions, Annex A	Delete from the terms of reference of the theme committees responsibility for "Grants to Voluntary Sector within the remit of the Committee."  Add to the terms of reference of the Community Leadership Committee responsibility for approving all grants to the voluntary sector.	Agreed amendments are detailed in Responsibility for Functions, Annex A (Committees Membership and Terms of Reference) attached at Appendix C
20.	Responsibility for Functions, Pension Fund Compliance Statement	Amend the Pension Fund Compliance Statement (which includes the responsibilities of the Pension Fund Committee) to include approval of the Pension Fund Statement of Accounts	Agreed as per report
21.	Responsibility for Functions,	Merge the terms of reference of the General Functions	Agreed as per report



No.	Section	Changes contained within document	Recommendation on to Full Council
	Annex A	Committee with those of the Remuneration Committee, except for functions relating to dealing with Chief Officer Appointments, Discipline and Capability matters	
22.	Responsibility for Functions, Annex A	<p>No changes proposed.</p> <p>Detailed proposals for the establishment of a Community Leadership Committee Sub-Committee comprising the chairman, vice-chairman and opposition spokesperson, to convene for the purposes of considering Community Right to Bid applications in cases where there is no full meeting of the Committee scheduled which falls within the eight week statutory deadline.</p>	<p>Agreed in principle, subject to detailed proposals being reported to and agreed by the Community Leadership Committee on 14 April 2015. Details of the sub-committee to be included in the report on Appointment of Standing Committees and Political Proportionality at the Annual Council meeting on 13 May 2015.</p>

**8. ANY OTHER ITEM(S) THAT THE CHAIRMAN DECIDES ARE URGENT**

None.

The meeting finished at 8.00 pm