

Report from the Constitution, Ethics and Probity Committee

2 September 2014

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. CONSTITUTION DEVELOPMENT

The Assurance Director introduced the report. The Committee having considered the proposed changes to the Constitution

RESOLVED TO RECOMMEND:

That Council approve the below changes:

| No | Section | Reference (papers submitted to Council) | Changes contained within document | Recommendation to Full Council |
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| 1 | Introduction to the Constitution | Appendix A Pages 21 to 26 | Citizens' Rights Amend text to clarify that written questions to Full Council are permitted. Explanatory Notes Change explanatory note to 12am rather than 11pm. | Agreed as per report Agreed as per report with the following amendments: Amend wording in explanatory notes to read '12 midnight' |
| 2 | Article 3 – Citizens and the Council | Appendix B Pages 27 | Citizens' Rights At 3.01 (b) (i) add the words "that part of" after "and" and before "meeting". Amended section 3.01 (b) (i) to read: "Attend meetings of the Council and its committees, except where confidential or exempt information is likely to be disclosed and that part of | Agreed as per report |

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| | | | the meeting is therefore held in private” | |
| 3 | Article 7 – Committees, Sub-Committees, Area Committees and Forums and the Local Strategic Partnership | Appendix C Pages 29 to 30 | <p>Local Strategic Partnership Remove the term “non-statutory body” and replace with “advisory Committee”.</p> | Agreed as per report |
| 4 | Article 9 – Chief Officers | Appendix D Pages 31 to 34 | <p>Management Structure In paragraph 9.01 (b) delete list of powers exercised by the Monitoring Officer as set out in the report</p> | Agreed as per report |
| 5 | Article 10 – Decision Making | Appendix E Pages 35 to 36 | <p>Decision making by the Full Council At the end of paragraph 10.04 add the following sentence: “If Full Council Procedure Rules are silent on a matter, then the Meeting Procedure Rules will be followed.”</p> <p>Decision making by other committees and sub-committee established by the Council In paragraph 10.05 delete “Council” and replace with “Meeting”.</p> | Agreed as per report |
| 6 | Article 12 – Review and Revision of the Constitution | Appendix F Pages 37 to 38 | <p>Procedure to be followed to change governance arrangements At the end of paragraph 12.01 add the following sentence: “Subject to the result of the referendum, the relevant provisions of the Localism Act 2011 would then require to be followed in order to bring the new system into effect.”</p> | Agreed as per report |

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| 7 | Responsibility for Functions | Appendix G Pages 39 to 46 | <p>Functions of the Full Council Amend paragraph 1.14 to include the wording “or dismissal” after “appointment” and before “of”. Amended section 1.14 to read “Confirming the appointment or dismissal of the Head of Paid Service.”</p> <p>Limitations on delegation to Council committees and sub-committees At the end of section 5.3 delete the wording “...and subject to the limitation for deciding matters crossing Committee’s boundary as set out in Article 7 of the Constitution.”</p> <p>Members’ rights to refer matters to parent body In paragraph 6.2 add the following wording after “committee”: “...within whose Terms of Reference it falls before the Committee has made a decision on the recommendation in that item”</p> <p>At the end of paragraph 6.3 add the following sentence: “This must occur before the decision has been taken at the committee or sub-committee.”</p> <p>At the end of paragraph 6.6 delete “up” and add the following wording after “referred”: “to the Planning Committee unless it falls within the terms of reference of the Planning Committee.”</p> | <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report with the following amendment: <i>Add “and / or Planning” after “Area” and before “Committee”</i></p> <p>Agreed as per report</p> <p>Agreed as per report</p> |

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| | | | <p>Table at paragraph 6.8 – After “Planning Committee” add “(if within the Terms of Reference of the Planning Committee)”; and In the column titled ‘No. of Members required to support a referral’ and in the row ‘All Other Committees’ amend to read “4 (where Membership 9 or more”</p> | <p>Agreed as per report</p> |
| 8 | <p>Responsibility for Functions Annex A</p> | <p>Appendix H Pages 47 to 77</p> | <p>Annex A to Responsibility for Functions – Membership and Terms of Reference of Committees and Partnership Boards</p> <p>Add to the terms of reference each theme committee the following wording: “To consider petitions within the remit of the Committee that contain between 2,000 and 6,999 signatures in accordance with the Public Participation and Engagement Rules”.</p> <p>Add to the terms of reference of each theme Committee “Authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules.”</p> <p>Neighbourhood Plans: Amend the terms of reference of Policy and Resources, Assets Regeneration and Growth, Planning Committees and Area Committees amended</p> | <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p> |

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| | | | <p>accordingly as per the report</p> <p>Remove from General Functions Committee terms of reference responsibility for “Appointing representatives on outside bodies” and “Appointing representatives to School Governing Bodies”</p> <p>Functions of Full Council Add to section 1.8 after “bodies” and before “unless” “...(including school governing bodies)...”</p> <p><i>Additional recommendation</i></p> <p>Health Overview and Scrutiny Committee, Terms of Reference. Amend section 5 to include after “Council” and before “authorised” add “...and the Health Overview and Scrutiny Committee are...”</p> <p>Local Strategic Partnership</p> | <p>Not agreed General Functions Committee (GFC) to retain primacy in making appointments on outside bodies and school governing bodies. Where the appointment is urgent and required before the next scheduled GFC, Full Council is empowered to take the decision (included in paragraph 1.8 of Responsibility for Functions)</p> <p>As above</p> <p>General Functions Committee terms of reference. Add after Ward Boundaries “ – request a ward boundary review by the Electoral Commission”</p> <p>Agreed as per report</p> <p>Agreed as per</p> |

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| | | | <p>Terms of Reference. Amend section (a) to delete “a non-statutory body” and replace with “an advisory committee”</p> <p>Add to the Terms of Reference of each theme committee:</p> <p>“Authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules.</p> <p>To submit to the Policy and Resources Committee proposals relating to the Committee’s budget for the following year in accordance with the budget timetable.</p> <p>To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including fees and charges proposals and virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.”</p> <p>Add to the Terms of Reference of the Policy & Resources Committee the following responsibilities:</p> <ul style="list-style-type: none"> • Review of progress of petitions considered at | <p>report</p> <p>Agreed as per report</p> <p>Agreed</p> |

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| | | | <p>theme committees; and</p> <ul style="list-style-type: none"> • Report on the issuance of grants below £5,000 by officers | |
| 9 | Responsibility for Functions – Officer Scheme of Delegation Annex B | Appendix I Pages 79 to 102 | <p>Delegated Authority to the Monitoring Officer In relation to authorising payments of up to £5,000 for maladministration add to the existing wording after “maladministration” the following: “...before any finding by the Ombudsman, in accordance with Section 92 of the Local Government Act 2000”</p> <p>Delegated Authority to the Deputy Chief Operating Officer (Deputy Section 151 Officer) Add the following wording: “Approving the issue of grants to the voluntary sector for amounts £5,000 and below”</p> <p>Section 1.10 amend to read “In addition, in consultation with the Chairman of the Policy and Resources Committee:”</p> <p>Section 1.11 delete the following wording:</p> <ul style="list-style-type: none"> • the Section 151 Officer in consultation with the Chairman of Assets, Regeneration and Growth Committee to make decisions about: <ul style="list-style-type: none"> ○ Entering into new leases with a consideration between £25,000 and £50,000 per annum where the council is granting the lease at best | <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p> |

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| | | | <p>consideration in accordance with the Local Government Act 1972.</p> <ul style="list-style-type: none"> ○ Acquisitions of land whether freehold or leasehold where the cost of the interest being acquired is between £20,000 and £30,000 per annum or as a one off consideration.” <p>Delegated Authority to the Chief Operating Officer / Director of Finance Amend table as follows:</p> <table border="1" data-bbox="699 904 1123 2074"> <tr> <td data-bbox="699 904 991 1861">With HB Public Law to make decisions about operational and works licences, easements, rent reviews and licences to assign, lease renewals, new leases, and acquisitions of land, whether freehold or leasehold, ,in accordance with legislation relating to Best Consideration and with the Asset, Land and Property Rules, specifically the thresholds set out in Annexes A and B</td> <td data-bbox="991 904 1123 1861">Local Government Act 1972</td> </tr> <tr> <td data-bbox="699 1861 991 2074">To respond to statutory notifications by Foundation Schools on proposals to</td> <td data-bbox="991 1861 1123 2074"></td> </tr> </table> | With HB Public Law to make decisions about operational and works licences, easements, rent reviews and licences to assign, lease renewals, new leases, and acquisitions of land, whether freehold or leasehold, ,in accordance with legislation relating to Best Consideration and with the Asset, Land and Property Rules, specifically the thresholds set out in Annexes A and B | Local Government Act 1972 | To respond to statutory notifications by Foundation Schools on proposals to | | Agreed as per report |
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| To respond to statutory notifications by Foundation Schools on proposals to | | | | | | | | |

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| | | | dispose of surplus land. | |
| 10 | Full Council Procedure Rules | Appendix J Pages 103 to 113 | <p>Amend section 2.1, bullet 15 as follows: Add the following wording after "...if there is more than one submitted": "The opposition motion debated will be determined by the opposition if there is more than one submitted."</p> <p>Addition to section 2.1 to include after "10pm" "...regardless of any extension to the meeting under 2.2 below"</p> <p>Add a new section 2.2 as follows: "The provisions in Meeting Procedure Rules 14.1 and 14.2 also apply to Council, namely that no business shall be transacted after 10pm and any business transacted after that time shall be null and void, but that at any meeting of Full Council, the Mayor or person presiding as Chairman may extend the period for the transaction of business to 10.30pm."</p> <p>Add to the start of 15.2 "Decisions shall be taken by a majority of those members present and voting except where specific provisions in this Constitution provide otherwise."</p> <p>Time for debate At the beginning of section 21.1 delete the following sentence: "The time allowed</p> | <p>Agreed</p> <p>Consideration deferred to enable a detailed report on adjournment motions to be considered at the next meeting</p> <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report with the following amendments:</p> |

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| | | | <p>will be set out in the timetable”</p> <p>Add a new section 2.2 (and renumber subsequent sections) as follows: “For all other items of business (e.g. reports of Committees or from Officers), each of the first two speakers may speak for a maximum of three minutes and all other speakers a maximum of two minutes.”</p> <p>Amend order of business of Full Council to consider ‘Question Time’ at Part 2</p> | <p>Delete “Each of the first three speakers under Rule 20.2 may speak for a maximum of 5 minutes.” and replace with “Each of the first speakers from each Group under Rule 20.2 may speak for a maximum of 5 minutes.”</p> <p>Agreed as per report</p> |
| 11 | Meeting Procedure Rules | Appendix K Pages 115 to 123 | <p>Members’ Rights Amend section to read: “A Member (including Members appointed as substitutes by Council) will be permitted to have one matter only (with no sub-items) on the agenda for a meeting of a Committee or Sub-Committee on which s/he serves. This rule does not apply to the Licensing Committee and Licensing Sub-Committees. A referral from Full Council will not count as a members item for the purposes of this rule.”</p> <p>Reports of Committees to Council or parent body Delete sections 12.1 and 12.2 and replace with: “There are a number of ways Committees and Sub-Committees may refer reports to their parent bodies, other Committees or Council which are set out in Paragraph 6 of the Responsibility for Functions</p> | <p>Agreed as per report</p> <p>Agreed as per report</p> |

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| | | | <p>section of the Constitution. Where a referral is made under that paragraph, the Officer's report to the Committee and any recommendations of the Committee or Sub-Committee will be submitted to the next meeting of the Council or the Committee concerned."</p> | |
| 12 | Public Participation and Engagement | Appendix L Pages 125 to 130 | <p>Amend section 6.9 to refer to "relevant theme" committee instead of "Policy & Resources Committee"</p> <p>In list of actions in Section 6.9 v) delete all and replace with:</p> <ul style="list-style-type: none"> • "Take no action • Note the petition • Agree a recommended course of action • Instruct an officer to prepare a report for a future meeting of the Committee on the issue(s) raised" | <p>Agreed as per report</p> <p>Agreed as per report</p> |
| 13. | Access to Information Rules | Appendix M Pages 131 to 139 | <p>Remove reference to Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 from the list of references</p> <p>Members' Rights to Information Amend section 13.1 to include the following wording as the final sentence of the paragraph: "Members have a common law right of access to council documents based on a 'need to know'. When making a request Members should clearly state the reason why they need the</p> | <p>Agreed as per report</p> <p>Agreed as per report</p> |

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| | | | <p>information they have requested.”</p> <p>Amend section 13.5 as follows: Delete “Local Government Finance Act 1982” and replace with “Sections 14 – 16 of the Audit Commission Act 1998 and Regulations 21, 22 and 25 of the Accounts Audit (England) Regulations 2011”</p> <p>Add after 13.5 the following as section 13.6: “Where it is not appropriate to send a Member a document on the grounds it is confidential or exempt the following procedures will be adopted for inspection, keeping in mind paragraph 13.3:</p> <ul style="list-style-type: none"> • Members should have access to the information for supervised reading. • This means that the Member must attend mutually agreed council premises to read the documents. • A paper or electronic copy will not be supplied in these cases nor will photocopying be permitted. • An officer with sufficient understanding and experience to answer any questions should be present, as should a lawyer • In some circumstances Members may be asked to sign confidentiality agreements” | <p>Agreed with explanatory text</p> <p>Agreed that additional section 13.6 be redrafted and circulated to Committee Members for review prior to submission to Full Council. A revised version is attached within Appendix M.</p> |
| 14 | Budget and | Appendix N | Delete the following | Agreed as per |

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| | Policy Framework | Pages 141 to 143 | <p>references: “Chapter 2, DETR Guidance The Local Authorities (Functions and Responsibilities) (England) Regulations 2000”</p> <p>Procedure for budget preparation Amend the wording at Section 3 (c) to read as follows: “Policy and Resources will take into consideration consultation and proposals from theme committees.”</p> <p>Add the following wording to section 3: “The theme committees will consider the budget for their areas of responsibility and submit proposals to the Policy & Resources Committee”</p> <p>Remove section 4 and renumber remaining sections.</p> <p>Remove the latter part of section 7</p> | <p>report</p> <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p> |
| 15 | Financial Regulations | Appendix O Pages 145 to 169 | <p>Annual Budget Setting Add at the end of section 4.3.3: “Theme Committees will work up proposals for Policy and Resources Committee consideration”.</p> | <p>Agreed as per report subject to the following amendment: “Theme Committees will work up proposals for consideration by the Policy & Resources Committee”</p> |
| 16 | Asset Land and Property Rules | Appendix P Pages 171 to 182 | <p>Application Amend section 2.16 to include the following wording after “(2)” and before “if”: “(A) of the Local Government Act 1972”</p> | <p>Agreed as per report</p> |

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| | | | <p>Asset Value Consideration Amend the final sentence of section 6.3 to read” A Less than Best Consideration offer may be recommended to Council under special circumstances, following approval by the Secretary of State for Communities and Local Government if it falls outside the scope of the General Disposal Consent 2003.</p> <p>Definitions Add to Section 13 the following definition: “Approved Officer” means any Director, Assistant Director, Lead Commissioner or Head of Service in accordance with the Scheme of Delegation who has responsibility for client management of the Estates function. All contracts tendered and let by their respective area of responsibility including contact monitoring and management once the contract is in place”</p> <p>Appendix 1 – Table A – Authorisation Delegated Powers Descriptions of officers in Table A amended, and Rows A and B in Table 1 become a single row</p> | <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p> |
| 17 | HR Regulations | Appendix Q Pages 183 to 188 | <p>Disciplinary Action Under 2.1.6 (a) second column add: “The Head of Paid Service has the power to appoint a Designated Independent Person. Where the process involves the Head of Paid Service the Monitoring Officer shall</p> | Agreed as per report |

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| | | | have this power” | |
| 18 | Protocol for Member Officer Relations | Appendix R Pages 189 to 201 | <p>Why Protocols Section 1.2 delete: “Jack Cohen, Leader of the Liberal Democrat Group”</p> <p>Amend section 2.4, 2nd bullet point to include after “officers” and before “to and other local public services”</p> | <p>Agreed as per report</p> <p>Agreed as per report</p> |