

Decisions of 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. MINUTES OF LAST MEETING

RESOLVED – That the minutes of the meeting held on 24 March 2014 be approved as a correct record.

2. ABSENCE OF MEMBERS (IF ANY)

There were none.

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

There were none.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

There were none.

5. PUBLIC QUESTION AND COMMENTS (IF ANY)

There were none.

6. MEMBERS' ITEMS (IF ANY)

There were none.

7. CONSTITUTION REVIEW

The Assurance Director introduced the report.

RESOLVED that:

1. the Committee, having considered the changes to the Constitution as set out in Appendices A to R, agree that the below changes be recommended to full Council for adoption.
2. Officers be instructed to make the required amendments to the proposed Constitution for inclusion in the papers for full Council to consider and approve on 23 September 2014.

No	Section	Reference (papers submitted to Committee)	Changes contained within document	Recommendation to Full Council
1	Introduction to the Constitution	Appendix A Pages 43 to 48	<p>Citizens' Rights Amend text to clarify that written questions to Full Council are permitted.</p> <p>Explanatory Notes Change explanatory note to 12am rather than 11pm.</p>	<p>Agreed as per report</p> <p>Agreed as per report with the following amendments:</p> <p>Amend wording in explanatory notes to read '12 midnight'</p>
2	Article 3 – Citizens and the Council	Appendix B Pages 49 to 50	<p>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 the meeting is therefore held in private"</p>	Agreed as per report
3	Article 7 – Committees, Sub-Committees, Area Committees and Forums and the Local Strategic Partnership	Appendix C Pages 51 to 52	<p>Local Strategic Partnership Remove the term "non-statutory body" and replace with "advisory Committee".</p>	Agreed as per report

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4	Article 9 – Chief Officers	Appendix D Pages 53 to 56	<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 57 to 58	<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 59 to 60	<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
7	Responsibility for Functions	Appendix G Pages 61 to 68	<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</p>	<p>Agreed as per report</p> <p>Agreed as per report</p>

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			<p>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>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 with the following amendment:</p> <p>Add "<i>and / or Planning</i>" after "Area" and before "Committee"</p> <p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p>

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8	Responsibility for Functions Annex A	Appendix H Pages 69 to 100	<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 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>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</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</p>

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			<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 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: “Authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget</p>	<p>urgent and required before the next scheduled GFC, Full Council is empowered to take the decision</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 report</p> <p>Agreed as per report</p>

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			<p>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 theme committees; and • Report on the issuance of grants below £5,000 by officers 	Agreed
9	Responsibility for Functions – Officer Scheme of Delegation Annex B	Appendix I Pages 101 to 124	<p>Delegated Authority to the Monitoring Officer</p> <p>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</p>	Agreed as per report

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			<p>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 consideration in accordance with the Local Government Act 1972. ○ 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>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed as per report</p>

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			<p>Delegated Authority to the Chief Operating Officer / Director of Finance Amend table as follows:</p> <table border="1" data-bbox="703 465 1123 1715"> <tr> <td data-bbox="703 465 991 1420">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="991 465 1123 1420">Local Government Act 1972</td> </tr> <tr> <td data-bbox="703 1420 991 1715">To respond to statutory notifications by Foundation Schools on proposals to dispose of surplus land.</td> <td data-bbox="991 1420 1123 1715"></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 dispose of surplus land.		Agreed as per report
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To respond to statutory notifications by Foundation Schools on proposals to dispose of surplus land.								
10	Full Council Procedure Rules	Appendix J Pages 125 to 136	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."	Agreed				

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			<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 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</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> <p>Delete "Each of the first three speakers under Rule 20.2 may speak for a maximum of 5 minutes." and replace with "Each</p>

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			<p>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>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 137 to 146	<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 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</p>	<p>Agreed as per report</p> <p>Agreed as per report</p>

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			to the next meeting of the Council or the Committee concerned.”	
12	Public Participation and Engagement	Appendix L Pages 147 to 152	<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 155 to 162	<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 information they have requested.”</p> <p>Amend section 13.5 as follows: Delete “Local Government Finance Act 1982” and</p>	<p>Agreed as per report</p> <p>Agreed as per report</p> <p>Agreed</p>

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			<p>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 that additional section 13.6 be redrafted a circulated to Committee Members for review prior to submission to Full Council</p>
14	Budget and Policy Framework	Appendix N Pages 163 to 166	Delete the following references: “Chapter 2, DETR Guidance The Local Authorities (Functions and Responsibilities) (England) Regulations 2000”	Agreed as per report

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			<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>Agreed as per 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 167 to 192	<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>	Agreed as per report subject to the following amendment: "Theme Committees will work up proposals for consideration by the Policy & Resources Committee"
16	Asset Land and Property Rules	Appendix P Pages 193 to 204	<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>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</p>	<p>Agreed as per report</p> <p>Agreed as per report</p>

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			<p>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>
17	HR Regulations	Appendix Q Pages 205 to 210	<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 have this power”</p>	Agreed as per report
18	Protocol for Member Officer	Appendix R Pages 211	<p>Why Protocols Section 1.2 delete: “Jack Cohen, Leader of the</p>	Agreed as per report

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	Relations	to 224	Liberal Democrat Group” Amend section 2.4, 2 nd bullet point to include after “officers” and before “to and other local public services”	Agreed as per report

Councillor Alison Moore moved a motion that the Group Leaders Panel be replaced by a Standards Committee with an independent chairman. Councillor Rawlings seconded the motion.

Votes were recorded as follows:

In Favour: 3
Against: 4
Abstentions: 0

The motion was lost.

RESOLVED that the Committee agree that the following items be added to the schedule of matters to be kept under review:

Section	Issue Identified
Meeting Procedure Rules	<u>Issue:</u> Review whether the Constitution should include a provision that the Chairman be required to indicate that he is proposing to move to the vote. <u>Reason:</u> To enable committee members to move a motion that the decision be referred to another committee for decision prior to chairman moving that the vote now be taken
Responsibility for Functions, Section 6.2	<u>Issue:</u> Review whether the Chairman of an Area Committee should retain the power to “...refer any item that it considers with a recommendation to the relevant committee.” <u>Reason:</u> Consistency with the referral mechanism for other committees
Full Council Procedure Rules, Section 2.1	<u>Issue:</u> Consider amending section 21.1, bullet 14 to state that written responses will be provided to questions to the Leader and that members of the public will be entitled to ask supplementary questions <u>Reason:</u> Alignment with the Public Participation and Procedure Rules.

Section	Issue Identified
Full Council Procedure Rules, Section 20.4	<p><u>Issue:</u> Review Full Council Procedure Rules section 20.4 at November meeting for review against existing custom and practice</p> <p><u>Reason:</u> Consider whether section 20.4 should be amended to enable the mover of the substantive Business Item to have the right to respond rather than the Member who opened the debate.</p>
Full Council Procedure Rules	<p><u>Issue:</u> Review wording to ensure consistent use of the terms 'Motion' and 'Business Item'</p> <p><u>Reason:</u> Consistency</p>
Responsibility for Functions, Annex A	<p><u>Issue:</u> Consider whether to reduce the number of theme committees by subsuming responsibilities into other committees from eight to six.</p> <p><u>Reason:</u> Frequency of meetings.</p>

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

There were none.

The meeting finished at 8.50 pm