

# Decisions of the Constitution, Ethics and Probity Committee

30 June 2016

Members Present:-

Councillor Melvin Cohen (Vice-Chairman in the Chair)

Councillor Richard Cornelius	Councillor Dr Devra Kay
Councillor Anthony Finn	Councillor Ross Houston
(substituting for Councillor John Marshall)	Councillor Barry Rawlings
	Councillor Joan Scannell BEM

Apologies for Absence:

Councillor John Marshall

## 1. MINUTES OF LAST MEETING

Councillor Dr Devra Kay highlighted that an amendment to Section 7.1 of the Meetings Procedure Rule discussed and agreed by the Committee at the last meeting had not been included in the minutes. The Chairman advised Councillor Kay that he was proposing to move some amendments during the discussion on the Constitution Review report and that these amendments would give effect to the change omitted from the minutes of the last meeting.

**RESOLVED that the minutes of the special meeting held on 9 May 2016 be approved as a correct record.**

## 2. ABSENCE OF MEMBERS

An apology for absence had been received from Councillor John Marshall who was substituted for by Councillor Anthony Finn.

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

There were none.

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

None.

## 5. PUBLIC QUESTIONS AND COMMENTS (IF ANY)

None.

## 6. MEMBERS ITEMS (IF ANY)

None.

## 7. CONSTITUTION REVIEW

The Committee considered the Constitution Review report which sought approval of revisions to the Constitution following the review of elements which require updating and review.

The Chairman advised the Committee that he wished to move additional amendments to sections 7.1 and 7.3 of the Meetings Procedure Rules and section 7.4 of the Members Planning Code of Practice. Copies of the proposed amendments had been circulated to the Committee.

In relation to the proposed amendment to section 7.3 of the Meetings Procedure Rules, the Committee noted that the wording that was proposed to be deleted had originally been inserted to mitigate against the risk of new information which may constitute a material planning consideration being tabled at planning committee meetings. Members highlighted that people making representations at planning committees often brought information to illustrate the points that they had made in written representations and the Committee agreed that this was acceptable and the practice should continue. The Chairman advised the Committee that, on balance, he considered it better to delete the new text relating to new information and instead request that planning, legal and governance officers supporting planning committees be issued guidance to ensure that new information was dealt with consistently:

- If the information illustrates a point made in their written representations (e.g. photos) this is acceptable;
- If the information introduces new technical information which requires assessment by the planning department, the officers supporting the committee may recommend that the application be deferred; or
- If the information introduces new information which requires consideration but may not be sufficient to warrant a deferral, officers may recommend that the meeting be adjourned for a time to enable the information to be considered prior to determining a course of action

### **RESOLVED that:**

1. **The Committee recommend to Council a change to Meeting Procedure Rule 7.1 to delete the following wording “...has been made before the expiry of the consultation period, and where the relevant Senior Planning Officer agrees...” and replace reference to “...an Area Planning Committee...” with “...the relevant Planning Committee...” with the revised section 7.1 to read as follows:**

**“For Planning Committees for any planning application where there has been a written request from a single Member of the Council setting out the planning reasons for the matter to be referred to the relevant Planning Committee the application will be referred to the relevant Planning Committee for determination. In that event the report will clearly identify that the item has been ‘called in’ and therefore the planning reasons will be set out.”**

2. The Committee recommend to Council a change to Meeting Procedure Rule 7.3 to delete the following wording “...No new information may be submitted by applicants and/or their representatives or objectors. The only information that will be considered is information which helps to explain a point that the person wishes to refer to in order to explain their position to the committee. Any such information must be limited to one side of A4.”
  
3. The Committee recommend to Council a change to Section 7.4 of Members’ Planning Code of Practice to add the word “...private...” between “No...” and “...meeting...” and add the wording “...involving a member or substitute member of the main planning committee or area planning committees...” after “...meeting...” and before “...shall...” with the revised section 7.4 to read:  
  

“No private meeting involving a member or substitute member of the main planning committee or area planning committees shall be convened without the presence of a Council planning officer for the entire duration of the meeting.”
  
4. That the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in the table below and the track change versions attached at Appendix A to Appendix C.

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
1	Contract Procedure Rules	Page 9	In section 1.2 which relates to failure to comply with the Contract Procedure Rules, the Rules refer to the post of ‘Chief Internal Auditor’. This post does not exist in the council’s management structure and consequently the post title needs to be updated.	Agreed as per report
2	Contract Procedure Rules	Page 9	Update required to include recently introduced regulations.	Agreed as per report
3	Contract Procedure Rules	Page 22	Addition of wording to clarify responsibilities relating to the maintenance of a contract register	Agreed as per report
4	Contract Procedure Rules	Page 22	Insertion of a new section 6.2 relating to Concession Contracts value calculation.	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
5	Contract Procedure Rules	Page 23	Requirement to correct contract value (to ensure clarity in the presentation and consistency of figures in the CPRs) and insertion of SMEs (Small Medium Size Enterprises)	Agreed as per report
6	Contract Procedure Rules	Page 24	Requirement to update procurement threshold.	Agreed as per report
7	Contract Procedure Rules	Page 25	New section required to ensure that the Rules are compliant with the Concession Contracts Regulations 2016.	Agreed as per report
8	Contract Procedure Rules	Page 26	Ensure that the Rules are compliant with Information Management requirements.	Agreed as per report
9	Contract Procedure Rules	Page 27	Update section 12.2 to correct wording.	Agreed as per report
10	Contract Procedure Rules	Page 31	Create a new section 17.6 to include references to Concession Contracts.	Agreed as per report
11	Contract Procedure Rules	Page 32	Clarify requirement to ensure that consideration is given to local suppliers for minor contracts.	Agreed as per report
12	Contract Procedure Rules	Pages 32 – 33	Inclusion of new wording to include the government definition of an SME.	Agreed as per report
13	Contract Procedure Rules	Pages 34 – 35	Inclusion of a new column to refer to supplier notification method and contract.	Agreed as per report
14	Meetings Procedure Rules	Page 42	To ensure that officer responsibilities relating to speakers at planning committees are correctly reflected in the Meetings Procedure Rules a change is proposed to remove reference to Governance Officer	Agreed as per report

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			and replace with Planning Case Officer to reflect current responsibilities and practice.	
15	Meetings Procedure Rules	Page 42	Planning committee procedures require a minor amendment to clarify that when more than two requests (rather than three as currently drafted) the speakers should decide amongst themselves who will address the committee.	Agreed as per report
16	Meetings Procedure Rules	Page 43	Following the changes made to Planning Committee Procedure Rules in May 2016, there is a requirement to introduce arrangements to enable the transfer of speaking rights in the event that an application is referred to the parent committee or deferred.	Agreed as per report
17	Responsibility for Functions, Annex A	Pages 53 – 54	<p>In relation to the Local Plan and associated planning policy documents, the current wording in the Constitution does not define Local Plan related documents. There is a lack of clarity about which documents should be approved and adopted by committees (either the Policy &amp; Resources Committee or Planning Committee) and which ones should be approved by committee prior to a decision being taken by full Council.</p> <p>The proposed changes clarify Local Plan and related documents.</p> <p>The changes clarify that emerging Development Plan Documents should be approved by Policy &amp; Resources and at what stages they should be referred to Council for decision.</p>	Agreed as per, report subject to the amendment of all references to ‘approved’ or ‘adoption’ throughout the whole of Responsibility for Functions, Annex A being replaced with ‘considered for approval and adoption’

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			<p>Likewise with Neighbourhood Plans. They should only be referred to Council for adoption.</p> <p>For Development Plan Documents the Council is required to approve submission to the Secretary of State and adoption by the Council.</p> <p>For Neighbourhood Plans the Council is required to approve adoption</p>	
18	Responsibility for Functions, Annex A	Page 71	The Planning Committee has a clear role in designating neighbourhood areas and neighbourhood forums. The Committee should also consider other elements of neighbourhood planning such as emerging Neighbourhood Development Orders and Community Right to Build Orders. The current wording is vague on how Planning Committee considers Neighbourhood Development Orders and Community Right to Build Orders.	Agreed as per, report subject to the amendment of references to 'approved' or 'adoption' being replaced with 'considered for approval and adoption'

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

None

The meeting finished at 7.25 pm