

Revisions to Part 4 of the Constitution

Head of Service/Contact:	Amardip Healy, Chief Legal Officer
Annexes/Appendices (attached):	Annex 1: Amended Rules of Procedure Annex 2: Contract Standing Orders Annex 3: Proposed Protocol and Guidance on recording, photography & use of social media Annex 4: Proposed Article 16 – inclusion of Petition Scheme
Other available papers (not attached):	Report to Council dated 20 July 2010 Report to Strategy and Resources Committee dated 26 July 2018 Report to Standards Committee dated 30 November 2018

Report summary

This report sets out the recommendations of the Standards Committee regarding proposed changes to Standing Orders in Part 4 of the Council's Constitution.

Recommendation (s)

That Council approve:

- (1) Revised Rules of Procedure of Procedure for Council and Committee meetings, set out at Annex 1;
- (2) The revised Contract Standing Orders for inclusion in Part 4, Section 6 of the Constitution, set out at Annex 2 subject to the correction of paragraph 5.45 to read as follows: "For procurement valued above the OJEU limit, tenders shall be evaluated by at least two officers including a representative from the Finance Department and the relevant department";
- (3) The proposed Protocol and Guidance on recording, photography and the use of social media set for inclusion in Part 5 of the Constitution, set out at Annex 3;
- (4) The inclusion of the Council's Petition Scheme approved at its meeting in July 2010, at Part 2 as Article 16 in the Council's Constitution, set out at Annex 4;

- (5) That authority be delegated to the Monitoring Officer to make any further changes as may be necessary arising out of this report in consultation with the Chairman of the Standards Committee;

and Notes

- (6) that, in accordance with authority already delegated to the Monitoring Officer, changes will be made to job titles in the remainder of Part 4 to update references in line with the management structure.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Good Corporate Governance underpins delivering the Council's Key Priorities.

2 Background

- 2.1 A comprehensive review of the Constitution is currently underway to ensure that it complies with all relevant statutory requirements and that its processes and procedures meet the needs for organisational efficiency and achieve good governance.
- 2.2 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent and accountable manner. Some of the content of the Constitution is required by law; the remainder is for the Council itself to determine.
- 2.3 The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution. The Monitoring Officer may amend the Constitution where there has been a change in law, job title, and structure, rearrangement of job responsibilities or for general administrative convenience. Full Council, however, must approve all extensive changes to the Constitution.
- 2.4 At its meeting on 26 July 2018, the Strategy and Resources Committee recommended the inclusion of a revised set of Contract Standing Orders (**Annex 2**) in Part 4 of the Constitution.
- 2.5 Part 4 of the Constitution also deals with a number of other key areas, including the Council's Rules of Procedure. Part 3 of the Constitution requires changes to its procedure rules to be approved by Standards Committee first.
- 2.6 The Standards Committee met on 30 November 2018 and considered the Council's Rules of Procedure and Procedure Rules for the Conduct of Committees, Sub Committees and Advisory Groups (currently section A of Part 4). The changes are contained in **Annex 1** and key proposals highlighted in this report.

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- 2.7 Whilst implementing the decisions taken at this meeting, the opportunity will also be taken to make changes to other sections of Part 4 in accordance with the authority delegated to the Monitoring Officer in relation to updating post titles in line with the current management structure and to reorder layout of Part 4.
- 2.8 Delegated authority is also being sought to reserve the right for the Monitoring Officer to make any further amendments that may be necessary arising out of this report in consultation with the Chairman of the Standards Committee.

3 Changes to Part 4 of the Constitution

- 3.1 In addition to the changes recently considered by Standards Committee, current section F of Part 4 (Contract Standing Orders) has already been reviewed and the changes approved & recommended by Strategy and Resources Committee for inclusion in the Constitution (paragraph 2.4 refers). Part 4 will be re-ordered and this section will now become Section 6.
- 3.2 On re-proofing Contract Standing Orders, a drafting error has been picked up in paragraph 5.45, which should read:
- “For procurement valued above the OJEU limit, tenders shall be evaluated by at least two officers including a representative from the Finance Department and the relevant department”
- 3.3 The changes Council is being asked to approve and adopt to Part 4 and those which can be made under delegated authority are summarised in Table 1 below:

Section	Current Position	Proposals
A. (a): Council Rules of Procedure	Considered by Standards Committee	As recommended in Annex 1
A. (b): Procedure Rules for the Conduct of Committees, sub Committees and Advisory Panels	Considered by Standards Committee	As recommended in Annex 1
D: Overview & Scrutiny Procedure Rules	To hold pending expected legislative changes.	Changes to post titles to update in line with new structure only
E: Financial Regulations	To be amended by Strategy & Resources early next year.	Changes to post titles to update in line with structure only

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Section	Current Positon	Proposals
F: Contract Standing Orders	Amended by Strategy & Resources in July 2018 Approved changes are being put to Council for adoption subject to correction of the drafting error in paragraph 5.45.	As recommended in Annex 2
G: Officer Employment Rules	To be amended	Changes to post titles to update in line with structure only.

- 3.1 The proposed changes to Section A (a) Full Council Procedure Rules and (b) Committee, Sub Committee & Advisory Panel Procedure Rules are aimed at updating current practice, addressing anomalies and general updating to reflect new post titles. Key changes are highlighted in the following paragraphs. Section A will now become Section 1.

4 Rules of Procedure relating to Council Meetings

- 4.1 For ease of reference, a generic definitions section has been included in Part A for both parts (a) and (b).
- 4.2 One key change to the procedure rules at Council meetings (excluding the Budget Meeting and Annual Meeting) is the inclusion within the running order for Chairman's statements. This is intended to provide Policy Committee Chairman with the opportunity to present a statement on current events and issues affecting the area of work of the committee they chair.
- 4.3 In regard to the appointment of Committees and Chairman, Standards Committee also recommended that it be included in the rules that a member may not be the Chairman of Audit, Crime & Disorder and Scrutiny Committee as well as the Chairman of any of the policy committees or Planning Committee.
- 4.4 It is also proposed to include a process around the use of mobile phones, the ability to film and record meetings. A revised rule has been drafted and a new protocol for inclusion within Part 5, which is attached at **Annex 3**.
- 4.5 In addition, although banners and placards will not be permitted to in meetings for reasons of health and safety, it is good practice to include a procedure rule to this effect.
- 4.6 A guillotine has also been set in order to avoid any meeting proceeding past 23.00hrs. This means the procedure rule is now not capable of being suspended.

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- 4.7 A rule has been added into the Council Rules of Procedure to reflect the provisions of the Council's Petition Scheme approved in July 2010 and it is proposed that the Scheme itself should also be set out in the Constitution in the form of a New Article 16 in Part 2 (**Annex 4** refers)
- 4.8 Changes have also been made to the section relating to questions from Members of Council to provide clear guidance on when and what questions can be asked and the deadline by which questions must be received has been changed to ten clear working days.
- 4.9 The section relating to Motions has been updated to ensure the process is stated clearly and a new process for the submission of Motions, which includes a prescribed form to be completed has been included.
- 4.10 The deadline for notifying the Chief Legal Officer of a proposed motion has been changed to ten clear working days and, to avoid any ambiguity, motions to Council will be accompanied by a covering report which will draw specific attention to the process and procedures for debate of motions rather than simply setting out the Motion for debate.
- 4.11 The Standards Committee has also recommended introduction of an overall limit on the amount of time devoted to the consideration of Motions.
- 4.12 The procedure around asking Council to decide if a motion can be debated on the night or referred on to an appropriate committee has been deleted from the process. This has been mitigated by requiring Council to refer a matter to a Policy Committee after Council has determined a Motion, which engages something a Policy Committee could or should consider.
- 4.13 Following on from changes to this section, the rules of debate sections have also been reconfigured and clarified and timings for speeches have been changed.

5 Rules of Procedure relating to Committee, Sub Committee & Advisory Panel Meetings

- 5.1 In terms of changes to the Committee, Sub Committee and Advisory Panels Procedure Rules, again these have been updated in line with good practice and general updating.
- 5.2 Changes have been proposed to the ability of questions from the public to be asked on agenda items. The aim of question sessions is to address those matters that fall within the terms of reference of a Committee to enable the public to raise issues.

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- 5.3 The deadline for the submission of written questions from the public has been harmonised with that of questions from members in order to ensure a consistent approach across the board. The deadline by which a written question must be submitted has been amended to 10 working days before the meeting in order to allow enough time in the timetable for replies to be made available.
- 5.4 Another key change made is to address the conflict created by the former CPR 82 rule. The Constitution currently makes a distinction between those members of Audit, Crime & Disorder and Scrutiny Committee who are able to:
- sit as full members of a Policy Committee, and
 - those that can sit as substitutes for Members of a Policy Committee
- 5.5 At present, CPR 82 provides that if a member is appointing a substitute to sit on a policy committee, that substitute cannot be a member of the Audit, Crime & Disorder and Scrutiny Committee. However, in Section D of Part 4, which sets out the Scrutiny Procedure Rules, para 2 sets out who can sit on Audit, Crime & Disorder & Scrutiny Committee and what they can and cannot do. Para 2.1 provides:
- “All councillors may be members of the Audit, Crime & Disorder but no councillor may be involved in scrutinising a decision in which he/she has been directly involved.”
- 5.6 This has created a conflict where members can sit on a Policy committee as a decision maker, but cannot as a substitute. This has been addressed by the removal of the words to CPR 82 that prevent a member of Scrutiny substituting for a member on a Policy Committee, but preserving the right for such a member not to scrutinise a decision in which they were involved at a Policy Committee.

6 Financial and Manpower Implications

- 6.1 There are no financial or manpower implications for the purposes of this report
- 6.2 **Chief Finance Officer's comments:** *None for the purposes of this report.*

7 Legal Implications (including implications for matters relating to equality)

- 7.1 Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep the Constitution up to date and regularly review it. There are no specific equality implications from the proposed amendments.

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7.2 **Monitoring Officer's comments:** *It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The process of updating the Constitution will ensure it fulfils its stated purpose, as set out in its Article 1.*

8 Sustainability Policy and Community Safety Implications; Partnerships

8.1 There are no implications for the purposes of this report.

9 Risk Assessment, Conclusion and Recommendations

9.1 The Council needs a sound Constitution that is kept up-to date and fit for purpose. By adhering to the rules and guidance set out in the Constitution, Officers and Members alike protect themselves from risk of challenge.

9.2 The changes to the Constitution are being taken in sections and a further review of the whole document will be undertaken when all parts have been individually reviewed.

9.3 Delegated authority is being sought for the Monitoring Officer to make any further changes as may be necessary arising out of this report in consultation with the Chairman of the Standards Committee. This is sought to allow the correction any inconsistencies or unintended consequences, such as for example, the unintentional anomaly like that in relation to former CPR 82, which may not have been picked up during the review of such a long and complex document.

9.4 Accordingly, the recommendations of the Standards Committee set out in the body of the report are commended to the Council.

Ward(s) Affected: (All Wards);