

CONSTITUTION UPDATE - REVISIONS TO PART 5: SECTION 8 PLANNING CODE OF PRACTICE

Head of Service/Contact:	Amardip Healy, Chief Legal Officer
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Annexes/Appendices (attached):	Annex 1 - draft Planning Code of Practice Annex 2 - Model Code of Practice in respect of Planning matters: Probity in Planning.
Other available papers (not attached):	Report and Minutes to the Planning Committee, 18 January 2018 and Council February 2018.

Report summary

This report presents the outcome of a review of the 'Model Code of Practice in respect of Planning Matters: Probity in Planning', and seeks to replace the current document with a new 'Planning Code of Practice'.

Recommendation (s)

The Committee is asked to:

- (1) consider the new draft Planning Code of Practice (Annex 1) for approval, and**
- (2) approve changes to Part 5 Section 8 of the Constitution, as set out in Annex 1 along with any other changes which may be agreed, with a referral to Council for adoption.**

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.

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2 Background

- 2.1 A comprehensive review of the current Constitution is currently underway to ensure that it complies with all relevant statutory requirements, and 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. The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, and structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.
- 2.3 The review of the Council's Constitution has so far included the following elements:
 - 2.3.1 Work to review the Constitution started on Part 3 and the Protocol for Managing Member/Officer relations in Part 5, both of which were approved by the Council on 17 July 2018.
 - 2.3.2 Changes to Part 4 were approved by the Council in December 2018. As a result of changes to Part 4, an additional Protocol was added to Part 5 (the Protocol and Guidance on recording, photography & use of social media).
 - 2.3.3 In April 2019 changes were made to sections of Part 5, including a new Code of Conduct for Members and general updating of other sections within the Part. Members were also advised that the Model Code of planning practice was under review.
- 2.4 By way of background to the planning code of conduct, Planning Committee agreed a Planning Improvement Action Plan at a special meeting on 13 November 2017. The Plan contained a number of actions to implement changes to the practices and procedures, with one action to update versions of the Planning Code of Conduct and Delegation Scheme.
- 2.5 At the time the revised Model Code of Conduct brought practice into line with the Localism Act and National Planning Guidance. The opportunity was also taken to refresh the processes around the use of the local convention of "call in" - i.e. the ability of councillors to require an application to be considered by the Planning Committee.

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- 2.6 It was agreed by Members that a review of the current Code would continue in line with the process of continuous improvement of process and procedures. The current review has taken a little longer than initially envisaged, to allow time for the new officer team establish itself. The draft Planning Protocol has been the subject of consultation and discussion by officers within both the Council's Planning Service and Leadership Team, to ensure it remains a focussed and effective.

3 Proposals

- 3.1 Following a detailed review of the current Model Code, along with consideration of the issues needing to be addressed, it was felt a new document was needed as opposed to a updating of the old.
- 3.2 The new draft Planning Code of Practice, attached at **Annex 1** is a very different type of document from its predecessor (attached at **Annex 2**). The training program on planning and an updating of the Members Code of Conduct have all helped in securing a different context to that which existed previously. It is therefore felt that a document which specifically deals with matters as opposed to restating generally the contents of the Members Code of Conduct, is more relevant now.
- 3.3 At the same time of setting out a new planning code of practice for members, it was also useful to set out a process and procedure for both public speaking the conduct of Planning Committee. The aim of this is to help with both transparency and the public's understanding of the arrangements for a meeting and also how Planning Committee makes decisions.

4 Financial and Manpower Implications

- 4.1 There are no financial implications for the purposes of this report.
- 4.2 **Chief Finance Officer's comments:** None for the purposes of this report.

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

- 5.1 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.
- 5.2 **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 Article 1 of Part 2 of the Constitution. The planning code of practice is a document which is included within the Constitution and therefore it is important to review it regularly.

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6 Sustainability Policy and Community Safety Implications & Partnerships

6.1 There are no implications of the purposes of this report.

7 Risk Assessment

7.1 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.

7.2 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. Accordingly, the recommendations in the body of the report are commended to the Committee. If approved a report will be taken to the next Council meeting seeking approval and adoption of Part 5, Section 8.

Ward(s) affected: (All Wards);