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Democratic Services



STANDARDS AND CONSTITUTION COMMITTEE

Tuesday 4 June 2024 at 7.30 pm

Place: Council Chamber, Epsom Town Hall

Online access to this meeting is available on YouTube: [Link to online broadcast](#)

The members listed below are summoned to attend the Standards and Constitution Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Hannah Dalton (Chair)
Councillor Rachel King (Vice-Chair)
Councillor Chris Ames

Councillor John Beckett
Councillor James Lawrence
Councillor Robert Leach

Yours sincerely

A handwritten signature in black ink, appearing to read 'R King', is written over a faint, larger signature.

Chief Executive

For further information, please contact democraticservices@epsom-ewell.gov.uk or tel: 01372 732000

EMERGENCY EVACUATION PROCEDURE

No emergency drill is planned to take place during the meeting. If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions.

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move to the assembly point at Dullshot Green and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

Public information

Please note that this meeting will be held at the Town Hall, Epsom and will be available to observe live using free YouTube software.

A link to the online address for this meeting is provided on the first page of this agenda. A limited number of seats will be available on a first-come first-served basis in the public gallery at the Town Hall. If you wish to observe the meeting from the public gallery, please arrive at the Town Hall reception before the start of the meeting. A member of staff will show you to the seating area. For further information please contact Democratic Services, email: democraticservices@epsom-ewell.gov.uk, telephone: 01372 732000.

Information about the terms of reference and membership of this Committee are available on the [Council's website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for this Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at democraticservices@epsom-ewell.gov.uk.

Exclusion of the Press and the Public

There are no matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government Act 1972 (as amended). Should any such matters arise during the course of discussion of the below items or should the Chair agree to discuss any other such matters on the grounds of urgency, the Committee may wish to resolve to exclude the press and public by virtue of the private nature of the business to be transacted.

Questions and statements from the Public

Up to 30 minutes will be set aside for questions and statements from members of the public at meetings of this Committee. Any member of the public who lives, works, attends an educational establishment or owns or leases land in the Borough may ask a question or make a statement on matters within the Terms of Reference of the Committee.

All questions must consist of one question only and cannot consist of multiple parts. Questions and statements cannot relate to planning or licensing committees matters, the personal affairs of an individual, or a matter which is exempt from disclosure or confidential under the Local Government Act 1972. Questions which in the view of the Chair are defamatory, offensive, vexatious or frivolous will not be accepted. Each question or statement will be limited to 3 minutes in length.

If you wish to ask a question or make a statement at a meeting of this Committee, please contact Democratic Services at: democraticservices@epsom-ewell.gov.uk

Questions must be received in writing by Democratic Services by noon on the third working day before the day of the meeting. For this meeting this is **Noon, Thursday 30 May**.

A written copy of statements must be received by Democratic Services by noon on the working day before the day of the meeting. For this meeting this is **Noon, Monday 2 June**.

For more information on public speaking protocol at Committees, please see [Annex 4.2](#) of the Epsom & Ewell Borough Council Operating Framework.

Filming and recording of meetings

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Members of the Press who wish to film, record or photograph a public meeting should contact the Council's Communications team prior to the meeting by email at: communications@epsom-ewell.gov.uk

Filming or recording must be overt and persons filming should not move around the room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non-handheld devices, including tripods, will not be allowed.

AGENDA

1. QUESTIONS AND STATEMENTS FROM THE PUBLIC

To take any questions or statements from members of the Public.

2. DECLARATIONS OF INTEREST

To receive declarations of any Disclosable Pecuniary Interests or other registrable or non-registrable interests from Members in respect of any item to be considered at the meeting.

3. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 10)

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Committee held on 5 December 2023 (attached) and to authorise the Chair to sign them.

4. SUMMARY OF CWG'S WORK IN 2023-24 & DRAFT CWG WORK PROGRAMME IN 2024-25 (Pages 11 - 16)

This report seeks to provide the following:

1. Summarise the work of the Constitutional Working Group (CWG) in 2023-24;
2. Reconstitute CWG for the municipal year ahead, and
3. Set out the draft work programme for CWG in 2024-25

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**Minutes of the Meeting of the STANDARDS AND CONSTITUTION COMMITTEE
held at the Council Chamber, Epsom Town Hall on 5 December 2023**

PRESENT -

Councillor Liz Frost (Chair); Councillor Hannah Dalton (Vice-Chair); Councillors Chris Ames, James Lawrence, Robert Leach and Chris Watson

In Attendance: Councillor Kate Chinn and Councillor Steven McCormick

Absent:

Officers present: Andrew Bircher (Interim Director of Corporate Services), Piero Ionta (Head of Legal Services and Monitoring Officer) and Tim Richardson (Democratic Services Manager)

7 QUESTIONS AND STATEMENTS FROM THE PUBLIC

No questions or statements were received from members of the public.

8 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to items of business to be discussed at the meeting.

9 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting of the Standards and Constitution Committee held on 29 June 2023 were agreed as a true record and signed by the Chair.

10 ORDER OF AGENDA ITEMS

The Chair informed the Committee that Item 4 of the agenda (Update to the Council's Constitution) was a large item and would be considered following the other items on the agenda.

11 COUNCILLOR CODE OF CONDUCT

The Committee received a report presenting the Councillor code of conduct, which has been reviewed by the Constitution Working group (CWG), with a recommendation for adoption.

The following matters were considered:

- a) **Local Government Association (LGA) model code.** The Vice-Chair informed the Committee that the proposed Code of Conduct had been produced by the LGA with input from numerous sources and had been adopted by many other councils. The Head of Legal and Monitoring Officer informed the Committee that he had contacted the LGA's Head of Legal Services regarding the next scheduled review of the Code of Conduct and had been informed that this was likely to be undertaken in 2024.
- b) **Code of Conduct Section 4, Dispensations (p236 of agenda pack).** In response to a question from a member, the Head of Legal and Monitoring Officer clarified the role of the Monitoring Officer as a statutory officer in relation to standards matters. The Head of Legal and Monitoring Officer informed the Committee that the wording of the LGA Code adopted established best practice with regard to the consideration of dispensation requests.

Following consideration the Committee unanimously resolved to:

- (1) **Recommend to Full Council that the Local Government Association Model Code of Conduct 2020 is adopted in its entirety.**

12 INDEMNITY SCHEME FOR COUNCILLORS AND OFFICERS

The Committee received a report presenting an indemnity scheme that had been reviewed by the Constitution Working Group (CWG) for adoption.

Following consideration the Committee unanimously resolved to:

- (1) **Consider the updated wording for the indemnity scheme as set out in Appendix 2 to the report; and**
- (2) **Recommend to Full Council that the revised indemnity scheme at Appendix 2 to the report, should be adopted as part of the council's operating framework.**

13 REVIEW OF CODE OF CONDUCT COMPLAINTS

To provide an update on complaints made under the Code of Conduct for Members from 1/2/2022 to 27/11/2023.

The following matters were considered:

- a) **Update as of 5 December 2023.** The Head of Legal and Monitoring Officer informed the Committee that subsequent to the publication of the agenda, no complaints about councillors had been received by the Council and that the report was correct as of 5 December.
- b) **Definition of complaints.** In response to a question from a member, the Head of Legal and Monitoring Officer informed the Committee that this

report related to complaints made about the conduct of councillors, rather than complaints about council services which were recorded and reported through a separate process.

Following consideration the Committee unanimously resolved to:

- (1) **Note there have been no complaints between 1 February 2022 to the 27 November 2023;**

14 UPDATE TO THE COUNCIL'S CONSTITUTION

This Committee received a report detailing the work that had taken place on updates to the Council's Constitution since August 2023 and set out proposals for recommendation to Full Council for adoption.

The Committee noted that an addendum to the report had been published as a supplement to the agenda in advance of the meeting.

The following matters were considered:

- a) **Council Constitution.** The Head of Legal and Monitoring Officer (Head of Legal) provided the Committee with a verbal introduction to his report. The Committee was informed that the Constitution is critical to success of the Council's effective decision making, provides delegation of authority to officers and the ability to maintain good order at meetings. The work of the Committee and Working Group was of great importance in ensuring that the Constitution is maintained in good order to enable the effective running of the Council on a daily basis. The Head of Legal expressed his appreciation for the support of councillors and external legal counsel to enable the report to be brought to this meeting.
- b) **Terms of reference of Policy Committees.** In response to a question from a member, the Head of Legal informed the Committee that all Policy Committee terms of reference had been amended to clarify that the Committee was able to approve all policy matters within their terms of reference, unless there was a budget impact outside the budget approved for that committee. In circumstances where there was a budget impact outside the committee's approved budget, the matter must be referred to the Strategy and Resources Committee for consideration unless otherwise permitted by Financial Regulations.
- c) **Financial Regulations.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that the Terms of Reference of the Committees were read in conjunction with the Council's Financial Regulations. The Financial Regulations set out that Committees had delegated authority to approve initiatives outside of the approved budget (up to a maximum of £50,000) if certain conditions were met as set out in the Regulations. These conditions included the agreement of the Chief Finance Officer.

- d) **Amendment to Licensing and Planning Policy Committee Terms of Reference.** The Committee noted that Term of Reference 4 of the Licensing and Planning Policy Committee as detailed on page 82 of the agenda had been included in error and would be deleted prior to consideration by Full Council.
- e) **Amendment to Scheme of delegation.** In response to a question from a member, the Head of Legal informed the Committee that the Council would be able to consider and approve an amendment to the Scheme of Delegation at its upcoming meeting despite having considered the Scheme at a meeting less than 6 months ago. The Council would not be considering a proposal which would be contrary to its previous decision.
- f) **Process for future changes to the Constitution.** In response to a question from a member, the Head of Legal informed the Committee that future changes to the Constitution (including amendments to Committee Terms of Reference) would be considered by the Constitution Working Group, brought to this Committee then recommended to Full Council for adoption.
- g) **Risk of policy fracture.** In response to a question from a member, the Vice Chair informed the Committee that the risk of policy fracture was addressed by the Council's Annual Plan providing clear direction on strategic priorities, regular meetings of all policy committee chairs and vice chairs and engagement from the Corporate Management Team. In response to a further question on the matter the Head of Legal informed the Committee that paragraph 1.3 of Appendix 3 to the Constitution (Terms of Reference) set out that in the event of there being uncertainty over the responsibility for a matter falling within the purview of more than one committee, the Chair of the Strategy and Resources Committee shall in consultation with the Monitoring Officer determine who shall make the decision.
- h) **Appendix 3, paragraphs 1.2 and 1.3.** The Vice Chair identified that paragraph 1.2 and 1.3 should be amended to include the words "Vice Chair of Strategy and Resources" in both provisions. The Head of Legal informed the Committee that these amendments were detailed in the agenda supplement published for this item.
- i) **Senior Management Structure diagram.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that the Senior Management Structure diagram was maintained by the Council's HR team and would be updated as required.
- j) **Procedure during absence of relevant officers.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that the live register of declarations would enable a time-limited delegation to a different officer to be put in place in the event of the planned absence

of an officer. The Live Register of delegations would be included on the Transparency page of the Council's website.

- k) **Procedure for urgent decisions.** In response to a question from a member, the Head of Legal informed the Committee that the wording of section 3.1 i. of appendix 2 had been recommended by external legal counsel following comparison with the standing orders of other neighbouring authorities of a similar nature and had been included within the Council's Constitution for a number of years.
- l) **Report to Audit and Scrutiny Committee on significant delegated decisions.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that draft reports were shared with the Chair and Vice Chair of the Audit and Scrutiny Committee in advance of the publication of agendas for that committee and that this enabled their consideration of whether delegated decisions met the threshold of the test of significance.
- m) **Determination of Tree Preservation and High Hedges applications.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that these matters had now been included within the delegation to the Head of Place.
- n) **Constitution Working Group consideration.** In response to a question from a member, the Head of Legal informed the Committee that the wording of paragraph 3.4 of Appendix 5 (Protocol for Managing Councillor / Officer relations) had been recommended by external legal counsel following comparison with the standing orders of other neighbouring authorities of a similar nature, but had not been considered by the Constitution Working Group in advance of the meeting of the Committee. The Head of Legal informed the Committee that the other amendments proposed by the report had been considered by the Working Group.
- o) **Amendment to paragraph 3.4, Appendix 5 (Protocol for Managing Councillor / Officer relations).** The Vice Chair proposed, and Councillor James Lawrence seconded an amendment to paragraph 3.4 of Appendix 5, that the paragraph be amended to read:
- “A Councillor should not approach officers directly to instruct that they work upon an issue that is not already included in an agreed workplan.”**
- Following consideration this amendment the Committee agreed this amendment, there being 3 votes for, 1 vote against, 1 abstention and the Chair not voting.
- p) **Paragraph 2.10, Appendix 7 (Protocol for Members of the Public Speaking at Committees).** In response to a question from a member, the Head of Legal informed the Committee that the inclusion of additional

wording in paragraph 2.10 of Appendix 7 was to clarify the intention of the paragraph and provide consistency to public speaking at meetings.

- q) **Scrutiny.** In response to a question from a member, the Head of Legal informed the Committee that Annex 4.6 of the Council's Operating Framework set out the arrangements for overview and scrutiny at the council and should be read in conjunction with the scrutiny procedures set out in Appendix 2 (Scheme of Delegation to Officers). Requests by councillors for scrutiny of delegated decisions should be made to the Council's Scrutiny Officer.

Following consideration, the Committee unanimously resolved to:

- (1) **Recommend that the Full Council approve the updated Appendices (2, 3 and 4) and Annexes (2-4, 3-3, 4-7, 5-1, 5-2, 5-3 and 6-2) and additional updated within the addendum to the report, so that they be adopted.**

The Committee resolved with 4 votes for, 1 vote against and 1 abstention to:

- (2) **Recommend that the Full Council approves the updated Annexe 4-2.**

The Committee unanimously resolved to:

- (3) **Agree that the Standard and Constitution Working Group review its Work Plan for this municipal year and bring a revised work programme to the next meeting of this Committee.**

The meeting began at 7.30 pm and ended at 9.12 pm

COUNCILLOR LIZ FROST (CHAIR)

CONSTITUTIONAL WORKING GROUP - SUMMARY OF CWG'S WORK IN 2023-24 & DRAFT CWG WORK IN 2024-25

Head of Service:	Andrew Bircher, Interim Director of Corporate Services
Report Author	Piero Ionta, Head of Legal and Monitoring Officer
Wards affected:	(All Wards);
Appendices (attached):	None

Summary

This report seeks to provide the following:

1. Summarise the work of the Constitutional Working Group (CWG) in 2023-24;
2. Reconstitute CWG for the municipal year ahead, and
3. Set out the draft work programme for CWG in 2024-25

Recommendation (s)

The Committee is asked to:

- (1) Establish a Constitutional Working Group for this municipal year as set out in paragraph 2.4 of this report to take forward the work of the Standards and Constitution Committee.**
- (2) Approve the draft work programme for CWG to progress in this new municipal year as set out in paragraph 2.4.1 of this report.**
- (3) Agree to reschedule the next meeting of the Standards and Constitution Committee from 5 November 2024 to 30 January 2025.**

1 Reason for Recommendation

- 1.1 Following the success of CWG in progressing the Committee's work throughout the last municipal year, it is proposed that a fresh working group be constituted to support this Committee with its objectives in the municipal year ahead. As with last year, any recommendation by CWG will result in reports back to this Committee at its next meeting, and in turn to Full Council for adoption (as may be necessary).

2 Background

Work of CWG in 2023-24

- 2.1 CWG had an ambitious work programme that was approved at its June 2023 meeting. This Committee invited CWG to look at:
 - 2.1.1 The councillors' Code of Conduct, and whether the council should: adopt the Local Government Association's (LGA) code of conduct; adopt an amended LGA code of conduct; or update its own code of conduct.
 - 2.1.2 Consider the timings of when people speak at committees, to ensure that these are consistent throughout the Constitution and between committees.
 - 2.1.3 Consider the councillor indemnity scheme, and whether there are any changes that need to be made.
 - 2.1.4 Consider the council's petition scheme and if any changes should be made.
 - 2.1.5 Consider the role of the HR panel.
 - 2.1.6 Complete an equality impact assessment for the different elements of the Constitution and Operating Framework.
 - 2.1.7 Consider any other matters arising from the last Constitution review.
- 2.2 CWG comprised of 5 councillors, the political group leaders of Resident's Association, Liberal Democrat, Labour and Conservative Groups, plus the chair of this Committee.
- 2.3 At this Committee's December 2023 meeting, CWG proposed updates to the Constitution – which includes a recommendation to adopt the LGA Member Code of Conduct as the new [Appendix 1](#) to the Council's Constitution, changes to [Annex 2.5](#) to address providing an indemnity to Members alongside a number of updates to the Constitution. These were all accepted by this Committee with a recommendation to full Council to adopt those changes, which it did at its meeting on 12 December 2023.

CWG Proposed Terms of Reference and Work Programme for 2024-25

- 2.4 The proposed terms of reference for a Standards and Constitution Committee Working Group are:
 - 2.4.1 Consider changes to the Constitution that would:

2.4.1.1	Explore whether to create a Constitutional Panel to take on the work of CWG from 2025-26 onward rather than needing to reconstitute a working group each new municipal year
2.4.1.2	Explore updates to the current qualifications permitting motions to be brought to full Council
2.4.1.3	Update Annex 4-2 to include delegating authority to the Head of Paid Service and Monitoring Officer in consultation with the Chair and Vice Chair of each Committee or the Mayor and Deputy Mayor (where it concerns full Council), the power to triage public questions
2.4.1.4	Introduce new Standing Orders setting out the disciplinary process against statutory officers
2.4.1.5	Establish a ‘proper officer’s’ list
2.4.1.6	Explore changes to Audit and Scrutiny Committee as a result of the recommendations from the recent LGA Corporate Peer Challenge (CPC)
2.4.1.7	Explore changes to the Protocol for Managing Councillor / Officer Relations Annex 2-4 of the Operating Framework

2.4.2 Consider the matters set out above and make recommendations to the Standards and Constitution Committee, with further recommendations to Full Council for approval as necessary. The list of which items will be discussed first will be agreed at the first meeting of the CWG to be held prior to the end of September 2024.

2.4.3 To work with officers and support their efforts as required and seek input from fellow councillors who are not members of CWG, as to the matters set out in 2.4 above.

2.5 The group will mirror the arrangements from this last municipal year and be a cross party group comprised of 5 councillors, made up of 4 councillors drawn from the political group leaders of Resident’s Association, Liberal Democrat, Labour and Conservative Groups, plus the Chair and Vice Chair of Standards and Constitution committee. The Chair of this Committee shall chair CWG and shall attend in her capacity as a political group leader. Substitutes would be permitted if a member could not attend, their substitute must be from their same political group.

- 2.6 It is important for this Committee to note that the proposed work programme set out in 2.4.1 above reflects the key issues that require attention over the forthcoming weeks and months ahead and shall take up all available officer capacity to deliver. Should a new priority arise or be identified during the course of this new municipal year, the Head of Legal shall in consultation with the Chair and Vice Chair consider whether an item or more of those outlined above would need to be removed from the work programme and dealt with at some later point in time (i.e., no earlier than from May 2025 onward) in order to address any such urgent issue.

Proposal to move the next meeting of this Committee from 5 November 2024 to 30 January 2025 and then the first meeting of this Committee from 3 June 2025 to either 11 or 18 September 2025 and thereafter scheduled meetings of this Committee every September and January cycle

- 2.7 It is noted that with this year's first meeting being held shortly after elections for the Surrey Police and Crime Commissioner on 2 May 2024 and the Council's Annual General Meeting on 14 May 2024, that this leaves little time for officers to prepare for this meeting nor to consult with the incoming Chair and Vice Chair of this Committee prior to the completion of the agenda for this meeting.
- 2.8 By moving the first meeting of this Committee to September each municipal year in the future, it should allow sufficient time for those officers supporting this committee to schedule time to meet and discuss the work programme of this Committee with any Chair and Vice Chair of this Committee so that this report may be better informed by having held those discussions prior to publication of the agenda.
- 2.9 That would then require the November meeting to move back to January each municipal year so as to leave sufficient time between both meeting for either the Committee or any working group reporting to it to liaise with officers to address those issues identified and resolved by this Committee at its first meeting of any new municipal year.
- 2.10 Any changes to reflect this beyond the current approved Calendar of Meetings shall be addressed when the next Calendar of Meeting for 2025-26 is brought to full Council for approval later this year.
- 2.11 This proposed change to when this Committee meets shall be reviewed after an initial full year in place (so by end of January 2026) to see if this revised schedule of meetings supports the work of this Committee.

3 Risk Assessment

Legal or other duties

- 3.1 Equality Impact Assessment

3.1.1 Not applicable to this report but shall be considered when reporting back to this Committee as to the work of CWG for each of the areas identified in paragraph 2.5 of this report.

3.2 Crime & Disorder

3.2.1 Not applicable.

3.3 Safeguarding

3.3.1 Not applicable.

3.4 Dependencies

3.5 The council's constitution is its primary governance document. Therefore, much of the council's business and operations depends on its contents

3.6 Other

3.6.1 Not applicable.

4 Financial Implications

4.1 **Section 151 Officer's comments:** None arising from the contents of this report.

5 Legal Implications

5.1 **Legal Officer's comments:** None arising from the contents of this report.

6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Effective Council.

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

6.3 **Climate & Environmental Impact of recommendations:** Not applicable

6.4 **Sustainability Policy & Community Safety Implications:** Not applicable

6.5 **Partnerships:** Not applicable

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

- Not applicable

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