

GOVERNANCE AND AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 25 NOVEMBER 2013

Councillors Present: Peter Argyle (Substitute) (In place of Sheila Ellison), Jeff Beck (Chairman), Paul Bryant, Tony Linden, Geoff Mayes, Julian Swift-Hook (Vice-Chairman) and Quentin Webb

Also Present: David Holling (Head of Legal Services) and Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Sheila Ellison

PART I

16. Minutes

The Minutes of the meeting held on 2 September 2013 were approved as a true and correct record and signed by the Chairman.

17. Declarations of Interest

There were no declarations of interest received.

18. Amendments to the Constitution - Parts 4, 7 and 13 (C2728)

David Holling introduced the report which set out some proposed changes to Part 4 (Council Rules of Procedure), Part 7 (Regulatory and Other Committees Rules of Procedure) and Part 13 (Codes and Protocols) in light of recent legislative and policy changes and to accord with recently issued government guidance.

Following an internal audit of the management of the Constitution in 2010 it was noted that one of the responsibilities of the Finance and Governance Group was to have ownership of the Council's Constitution. The content of the Local Code of Corporate Governance stated that there would be an annual review of the operation of the Constitution. A timetable had therefore been established for the Finance and Governance Group to review individual sections of the Constitution and a number of Officers had been involved in revising specific parts of the Constitution. This report proposed amendments to Parts 4 (Council Rules of Procedure), 7 (Regulatory and Other Committees Rules of Procedure) and 13 (Codes and Protocols) of the Constitution as set out within the report.

The following key changes had been made to the various sections of the Constitution.

Part 4 Council Rules of Procedure

The Use of Electronic Devices (4.6.2) was aligned with the proposed Social Media Protocol which would also be discussed at the December 2013 Council meeting.

Paragraph 4.13.7 (Amendments to Motions) was amended to take on board the request made by the Portfolio Holder for Finance about making information available on amendments proposed at the annual budget meeting.

Appendix A was amended to take cognisance of the guidelines issued by Central Government on broadcasting meetings.

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Part 7 Regulatory and Other Committees Rules of Procedure

Information pertaining to the various meetings covered by this part of the Constitution had been standardised.

The Use of Electronic Devices (7.2.5) had been aligned with the proposed Social Media Protocol which would also be discussed at the December 2013 Council meeting.

Reference to authority to appoint Members to Outside Bodies had been removed as this function had been delegated to the Leader of the Council.

Reference to Urgency Sub-Committee had been removed as this committee no longer formed part of the Council's governance structure.

Appendix A was amended to take cognisance of the guidelines issued by Central Government on broadcasting meetings.

Part 13 Codes and Protocols

This Part of the Constitution had been aligned to the revisions to the Members' Code of Conduct which would also be discussed at the December 2013 Council meeting.

The Officer's Code of Conduct had been updated to align it with changes to a number of HR Policies and to provide additional clarity to this section of the Constitution. This section had also had the text changed in respect of gifts and hospitality to align it with current working practices.

Appendix B (Protocol for Decision Making by Individual Executive Member) had been amended to align it with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Appendix C (Procedure Rules for Dealing with Representations) had been amended at the September 2013 meeting.

Appendix H (Members Code of Conduct) would also be discussed at the December 2013 meeting.

Appendices D and E would be amended at the March 2014 Council meeting once they had been considered by the Standards Committee.

Appendices A, G and J would be amended at the March 2014 Council meeting once they had been considered by the Governance and Audit Committee.

Appendices F and I would be amended at the May 2014 Council meeting once they had been considered by the Governance and Audit Committee.

The following additional changes set out in the table below were also requested at the meeting:

Item/ Ref	Page	Amendment
Item 4 - Amendments to the Constitution (Para 4.6.2)	21	Delete the words 'seek the consent of' and replace with 'inform' in the first paragraph.
Item 4 - Amendments to the Constitution (Para 4.6.2)	21	Delete the words 'The Chairman of the relevant meeting will have absolute discretion to prevent the use of devices if such use is deemed to be disrupting the meeting.' In the second paragraph. This paragraph needs to be aligned to paragraph 4.15. (Behaviour of Members) This should be replaced with 'If at a Council meeting, a Member's use of an electronic communication device is causing proceedings to be disrupted any Member may move that the Member should desist from using the device. If the motion is seconded it should be put to the vote without discussion.'

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Item/ Ref	Page	Amendment
Item 4 - Amendments to the Constitution (Para 4.6.2)	21	Insert the word 'so' between 'do' and 'in' in the first sentence of the last paragraph.
Item 4 - Amendments to the Constitution (Para 4.8.3)	23	That the word Gambling Act in the final paragraph be written using a capital 'G'
Item 4 - Amendments to the Constitution (Para 4.9.12 (p))	25	That a Member named under Rule 4.6.2 (Electronic Communication Devices) be prevented from further using their electronic communication device at the meeting or leave the meeting.
Item 4 - Amendments to the Constitution (Para 4.12.2)	27	Delete the word fax and search remainder of the documents to ensure all references removed.
Item 4 - Amendments to the Constitution (Para 4.13.7)	30	In the first line of the last paragraph replace the word 'substantive' with the word 'substantial'.
Item 4 - Amendments to the Constitution (Part 4 Appendix A)	36	If approved this will be replaced with Appendix A as set out on page 187
Item 4 - Amendments to the Constitution (Para 7.1.1 & 7.1.2)	43	Delete the words 'or the Local Development Framework'
Item 4 - Amendments to the Constitution (Para 7.2.5)	45	Align the text to the wording on 4.6.2
Item 4 - Amendments to the Constitution (Para 7.2.5)	46	Insert the word 'so' between 'do' and 'in' in the first sentence of the last paragraph.
Item 4 - Amendments to the Constitution (Para 7.3.4)	48	Delete the words 'or the Local Development Framework'
Item 4 - Amendments to the Constitution (Para 7.3.1)	48	Insert 'and licensing' after the word 'planning' in the second line of the bold text
Item 4 - Amendments to the Constitution (Para 7.8)	51	Delete the first sentence and in the second sentence replace the word 'Commission' with the word 'Committee'. Remove any similar text to the first sentence from the rest of the Constitution.
Item 4 - Amendments to the Constitution (Para 7.13.4)	55	Remove the reference to U.S. Formatting and insert a bullet point next to 'Adjoining Ward Member(s).'
Item 4 - Amendments to the Constitution (Para 7.13.7)	56	Delete the words 'or the Local Development Framework'
Item 4 - Amendments to the Constitution (Para 7.14.2)	56	Amend the first sentence to read 'The procedure set out below shall apply in respect of each item where any of the following persons are present:'
Item 4 - Amendments to the Constitution (Para 7.14.3)	57	In the fourth bullet point delete all the text from e.g. onwards
Item 4 - Amendments to the Constitution (Part 7 Appendix A)	59	If approved this will be replaced with Appendix A as set out on page 187
Item 4 - Amendments to the Constitution (Para 13.1.10)	70	Make a reference to the fact that posts referred to in paragraph 13.1.10 are politically restricted

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Item/ Ref	Page	Amendment
Item 4 - Amendments to the Constitution (Para 13.1. 11)	70	Replace the heading 'Role of Group Executives' with 'Politically Restricted Roles'
Item 4 - Amendments to the Constitution (Para 13.3.4)	74	In the fourth bullet point the word 'spokesperson' should be written with a small 's'.
Item 4 - Amendments to the Constitution (Para 13.3.7)	75	Replace the word 'has' with 'have' in the second line of the third paragraph and the last line of the fourth paragraph.
Item 4 - Amendments to the Constitution (Para 13.4.1)	76	The word conduct in the last paragraph should be written with a capital 'C'.
Item 4 - Amendments to the Constitution (Para 13.4.8)	78	Replace the word 'should' with the word 'must'.
Item 4 - Amendments to the Constitution (Para 13.5.4)	80	Add an 's' onto the word 'cost' in the last line of the second paragraph
Item 4 - Amendments to the Constitution (Para 13.5.5)	81	Replace the word 'They' with 'The Head of Service' in the second line of the final paragraph on this page
Item 4 - Amendments to the Constitution (Para 13.5.6)	82	Replace 'scp' with 'spinal column point'
Item 4 - Amendments to the Constitution (Para 13.5.10)	83	In the first sentence of the second paragraph delete the word 'they'.
Item 4 - Amendments to the Constitution (Para 13.5.11)	84	Delete the first paragraph.
Item 4 - Amendments to the Constitution (Para 13.5.12)	84	The second paragraph insert an apostrophe into the word 'employees' in the last line
Item 4 - Amendments to the Constitution (Para 13.5.13)	85	Replace the word 'should' with the word 'must' in all four paragraphs.
Item 4 - Amendments to the Constitution (Appendix B item 5)	102	Replace the word 'happy' with 'content'

A number of these changes were to correct typographical errors. Members also requested that, in respect of the use of electronic devices at meetings, they would need to inform the Chairman of their intent to use them rather than to seek permission. Members also requested that the policy in respect of disruption of meetings be aligned to the procedures for dealing with disorderly conduct at meetings rather than giving the Chairman the authority to ask Members to desist from using the devices. Members requested that once the Audit and Accountability Bill was enacted that a form of wording be inserted on agendas setting out that Members were permitted to use electronic devices in meetings.

Members adjourned the meeting to consider tabled comments from the Trade Unions in respect of the proposed changes to the protocol relating to filming and recording of meetings (Appendix A to Parts 4 and 7 of the Constitution).

The Trade Unions requested that the notice period of three days be extended to five. The Committee after considering this request determined that it should remain at three days,

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notwithstanding the five day period for submission of information to Planning Committees, for the following reasons:

- The agenda would be issued five clear working days before the meeting and a five clear day notice period would not give all parties the opportunity to have had access to the agenda;
- The current notice period was one day and therefore extending it to five days could be viewed as being excessive;
- This would all be subject to the outcome of the Audit and Accountability Bill once it was enacted.

The Trade Unions also requested that relevant Officers be informed of the request to record the meeting and the Committee agreed that this would be a useful addition to the Protocol.

The Committee noted the Trade Unions request for those persons who were authorised to record meetings to clearly identify themselves and the Committee therefore proposed that the following be included in the protocol 'Such persons will be issued with a written authorisation and will be asked to identify themselves to the Chairman or Vice-Chairman before the start of the meeting. The Chairman will advise such persons about the appropriate location to make recordings from.'

The Trade Unions also raised concerns that members of the public attending meetings, but not speaking, might also wish not to be recorded. The Committee therefore suggested that the wording in the Protocol be amended to read 'Members of the public who have given notice of their wish to speak at any public meeting and members of the public present at the meeting shall be advised of the request to record the meeting and shall be able to decide to "opt out" of being recorded. This information will be relayed to the person wishing to record the meeting.'

Members agreed to recommend the report, subject to the inclusion of the agreed amendments, to Full Council for approval.

RESOLVED that the amended report would be considered by Full Council on 12 December 2013.

19. Revised Code of Conduct for Members (including a Social Media Protocol) (C2737)

The Committee considered a report (Agenda Item 5) which asked Members to discuss and if appropriate agree any recommended changes to the Members' Code of Conduct following the scheduled review by the Standards Committee and to consider the introduction of an associated Social Media Protocol for Members.

David Holling introduced the changes required to the Members' Code of Conduct. West Berkshire Council's Code of Conduct for Councillors had been adopted by Full Council at its meeting on 10th May 2012 and came into effect from 1st July 2012. The new processes had been in place for a year and, as suggested in the original report, the Code had been reviewed by a Task Group of the Standards Committee to reflect on its effectiveness. Following that review a number of changes were therefore set out in the document attached to the report.

Blogging and social networking had become increasingly popular and was an effective method for Councillors to interact with their parishioners. However, it was not clear whether such activities were covered by the Code of Conduct and therefore a Social Media Protocol had been drafted to ensure that the use of online media was well received.

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The following changes to the existing Code of Conduct had been proposed by the Standards Committee Task Group:

- The scope of when the Code was applicable should be reviewed and if appropriate clarified;
- Footnotes pertaining to the Bribery Act 2010 and the Local Authority Code of Publicity should be inserted;
- The terms “you must” and “you must not” to be inserted into the Code relating to the obligations of Members;
- The level at which gifts and hospitality should be declared to be reviewed and if appropriate amended.

A number of amendments were also proposed to the existing procedures which included an assumption that hearings should take place in public and the ability for an Advisory Panel to refer an investigation back to the investigator if appropriate.

David Holling stated that the report had been considered by the Standards Committee where it had been agreed that the level at which gifts and hospitality should be declared should remain at the current value of £25. The Standards Committee were supportive of the Social Media Protocol.

The following amendments to the document were also agreed at the Governance and Audit meeting:

Item 5 Revised Code of Conduct for Members (Para 1.1)	195	Replace the text in the third line ‘It is effective from’ with ‘It came into effect on’
Item 5 Revised Code of Conduct for Members 3(d)	197	The words disclosable pecuniary interests should be written with a capital at the start of each word.
Item 5 Revised Code of Conduct for Members (Para 4.1.1)	197	Insert the word ‘of’ at the end of the first paragraph and insert semicolons after items (b) and (c) and a full stop at the end of (c).
Item 5 Revised Code of Conduct for Members (Para 7.1)	201	In the third line replace the word ‘of’ with ‘or’ after the word ‘receipt’.
Item 5 Revised Code of Conduct for Members (Para 2.2 (i))	206	Insert a hyphen into the word ‘decision-making’
Item 5 Revised Code of Conduct for Members (Para 2.2 (iv))	207	Delete the words ‘They suggest that’.
Item 5 Revised Code of Conduct for Members (Para 3.1)	207	Insert the word ‘the’ before ‘Standards Committee’.
Item 5 Revised Code of Conduct for Members (Para 3.	207	Insert the words ‘these are’ after the words ‘are objective and’ and replace the ‘a’ before Standards Committee with the word ‘the’.
Item 5 Revised Code of Conduct for Members (Para 5 (ii))	208	Insert a comma after ‘If appropriate’ in the first sentence
Item 5 Revised Code of Conduct for Members (Para 5 (iv))	208	Delete the word ‘the’ before ‘Monitoring Officer’.
Item 5 Revised Code of Conduct for Members (Para 5 (ix))	209	The word ‘Act’ should not be deleted

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Item 5 Revised Code of Conduct for Members (Flowchart)	211	Insert the word 'relevant' in front of the word 'committee' under sanction 2
Social Media Protocol	215	You should not: (d) spell the word 'council' with a capital 'C'.
Social Media Protocol	216	Align the text with that in paragraph 4.6.2

Members agreed to recommend the report, subject to the inclusion of the agreed amendments, to Full Council for approval.

RESOLVED that the report would be considered by Full Council on 12 December 2013.

(The meeting commenced at 5.00pm and closed at 7.20pm)

CHAIRMAN

Date of Signature