

**To: All Members of the Constitution Sub Committee**

Professor Steven Broomhead  
Chief Executive  
Town Hall  
Sankey Street  
Warrington  
WA1 1UH

Councillors:  
Chair – C Fitzsimmons

B Axcell, K Buckley, C Froggatt and B Maher

### **Constitution Sub Committee**

Date: Thursday, 11 April 2019

Time: 17:00

Venue: Committee Room 1, Town Hall, Sankey Street, Warrington, WA1 1UH

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Contact Adam Kellock, Democratic & Member Services, Tel: 01925 442144,  
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### **AGENDA**

#### **Part 1**

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

**1 Apologies**

To record any apologies received.

**2 Code of Conduct - Declarations of Interest**

**Relevant Authorities (Disclosable Pecuniary Interests)  
Regulation 2012**

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.

**3 Minutes**

3-6

To confirm the minutes of the meeting held on 2 February 2019 as a correct record.

**4 Proposed Constitutional Amendments**

7-25

Report of the Head of Legal and Democratic Services (Monitoring Officer).

**Part 2**

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

## **Constitution Sub Committee**

**7 February 2019**

**Present:** Councillors C Fitzsimmons (Chair), B Axcell, C Froggatt and B Maher

### **CSC 5            Apologies**

Apologies were received from Councillor K Buckley.

### **CSC 6            Code of Conduct – Declarations of Interest**

There were no declarations of interest received.

### **CSC 7            Minutes**

The Minutes of the meeting held on 18 October 2018 were signed and agreed as a correct record.

### **CSC 8            Proposed Constitutional Amendments**

The Monitoring Officer presented the report which outlined the present areas within the Constitution which members may wish to consider for potential future amendments.

The Council Meeting Procedure Rules were considered by the sub committee and amendments were recommended and subsequently approved at the May 2018 Annual Council Meeting with references to supplementary questions from members of the public being removed. It had since been recommended that this matter be reviewed with options to be suggested by members.

It was considered that it would be appropriate given the feedback received to reinstate the supplementary questions references within the Council Procedure Rules as they existed prior to May 2018 with effect from the Annual Meeting in May 2019.

Given the previous issues raised regarding the supplementary questions which lead to the removal from the Council Procedure Rules it was suggested that an addition to the Constitution be made to further advise members of the public that supplementary questions should not be unduly lengthy and to suggest a cap of 30 seconds for the question to be asked.

With regards to the call-in protocol it was noted that the current arrangements required a member to be a member of a Policy Committee in order to initiate a call-in whilst also excluding members of the Scrutiny Committee and Health Scrutiny Committees from carrying out such an action.

The sub committee was minded to proposed amendments to this rule to allow all non-Executive members of the Council to initiate a call-in. It was also suggested that in line with

increasing the number of members who can initiate a call-in that for a call-in to be valid it must be signed by a minimum of five eligible members of the Council. Excluding the Executive Board members who would not be eligible this would constitute 10% of the members.

Further to the above suggestion it was also recommended that whilst a member of the Scrutiny Committee or Health Scrutiny Committee could call-in an item if they were to sign the call-in they would not be able to take part or vote at the meeting when the call-in was considered to avoid any questions regarding predetermination.

The sub committee considered the current arrangements in relation to statutory co-opted members of the Scrutiny Committee and it was suggested that their voting rights in relation to education matters be clarified within the Constitution to avoid any confusion.

Further to the above it was suggested that the location of co-opted members on both the Scrutiny Committee and the Building Stronger Communities Policy Committee be reviewed.

The status of single members not part of a formal political group and the allocation of committee places was also considered by the sub committee. The current arrangements in terms of political proportionality in determining committee places meant that if a member were not part of a political group they would not be entitled to any places on the various Council committees. For clarification a political group is defined as being two or more members who confirm in writing that they are part of a political group.

Current arrangements and conventions meant that members elected outside of the normal electoral round took up the places vacated by the previous member. It was noted that a member who was not part of a political group could be allocated committee places but this would be at the discretion and gift of another political group who may wish to have to allocate an independent member one of their committee places.

It was agreed that in future this would be made clearer both within the Constitution and within the report to Full Council on the allocation of committee places to clarify that such seats were allocated on behalf of a certain group.

A number of miscellaneous amendments to the Constitution were included in the report and the sub committee was requested to delegate authority to the Monitoring Officer to update the Constitution accordingly. Particular amendments relating to the governance structure of the Council were made on a fairly regular basis and the sub committee was content to delegate to the Monitoring Officer to carry out these updates as and when required.

A point was made with regards to the amendment relating to the Leaders' Announcements at Full Council and it was suggested that a requirement for the announcements to be circulated to members on the Thursday prior to the Full Council meeting.

It was agreed that the sub committee would reconvene on Thursday 11 April 2019 to consider a report on the above proposals with a mind to making recommendations on

amendments to the Constitution to the Annual Meeting of Full Council on Monday 20 May 2019.

Decisions:

That the sub committee considers a report on the above discussed proposals at its next meeting on 11 April 2019.

Signed .....

Dated.....



# WARRINGTON BOROUGH COUNCIL

## CONSTITUTION SUB-COMMITTEE

### 11 April 2019

**Report of:** Matthew Cumberbatch, Head of Legal and Democratic Services  
(Monitoring Officer)

**Report Author:** Adam Kellock - Democratic Services Officer

**Contact Details:** **Email Address:** [akellock@warrington.gov.uk](mailto:akellock@warrington.gov.uk) **Contact Details:** 01925 442144

**Ward Members:** All

#### TITLE OF REPORT: PROPOSED CONSTITUTIONAL AMENDMENTS

#### 1. PURPOSE

- 1.1 To consider and discuss proposed amendments to the Constitution and recommend any amendments to the Annual Meeting of Council on 20 May 2019.

#### 2. CONFIDENTIAL OR EXEMPT

- 2.1 This report is not considered to contain confidential or exempt information

#### 3. INTRODUCTION AND BACKGROUND

- 3.1 The legal framework relating to local authority Constitutions is relatively straight forward. Section 37 of the Local Government Act 2000 (as amended) ("the Act") requires local authorities operating executive arrangements to prepare and keep up to date a document to be referred to as the Constitution. The Council Procedure Rules in the constitution (Paragraph 7.1(a) (xiv)) require the Council at its Annual Meeting to approve any changes to the Constitution. It is also considered to be good practice for the Council to review and re-adopt its Constitution annually.
- 3.2 It is considered good practice for the Constitution to be reviewed fully on an annual basis and to be readopted by the Full Council at its Annual Meeting. However, the Constitution is always under review for changes that need to be made or become apparent in the course of the year as and when necessary.

#### 4. CURRENT CONSTITUTION

- 4.1. The current Constitution was first approved by Council at its 30 June 2008 meeting and has been revised from time to time in the light of new legislation and changes to local practices and procedures. The Constitution has been re-adopted at successive Annual Council meetings and most recently at the meeting held on 21 May 2018. Further to this amendments were agreed at Full Council on 17 December 2018 in relation to the term of office of the Leader of the Council and the role of the Civic Mayor.

- 4.2. Members considered various items at the meeting held on 7 February 2019 and requested that a further report be brought with additional details as set out below. The below proposed amendments are set out within the table at Appendix A.

## **5. COUNCIL MEETING PROCEDURE RULES**

- 5.1 At its 21 May 2018 meeting Full Council approved the removal of references to supplementary questions within the questions from the public section of the Council Procedure Rules.
- 5.2 At the last meeting of the Sub-Committee on 7 February 2019 members indicated that they wished for the supplementary questions to be restored to the Council Meeting Procedure Rules effective from the first full meeting of the 2019/20 municipal year following the updated Constitution being readopted at the annual meeting on 20 May 2019.
- 5.3 The Sub-Committee directed that supplementary questions be restored to the Council Meeting Procedure Rules as they were prior to the amendment in May 2018 subject to the addition of a 30 second time limit on the asking of the supplementary question within the five minute overall time limit for each question. It was decided that the maximum number of questions that can be asked per meeting remain at 3.
- 5.4 The proposed amendments within Section A – Council Procedure Rules, paragraphs 13.12 to 13.25 is attached to this report at Appendix B for members to consider.

## **6. CALL-IN PROTOCOL**

- 6.1 In line with the legislative requirements as set out in the Act and Schedule 2 of the Localism Act 2011 the Council operates arrangements for the call-in of decisions taken by the Executive Board. The Protocol on the use of the Call-in Procedure, is set out in Section D of the Constitution.
- 6.2 An amendment to this protocol which would allow all members of the Council who are not members of the Executive Board to initiate or sign a call-in is set out within the attached Appendix C to the report. Further to this, a proposed amendment requiring a call-in to be signed by four eligible members, creating a total of five members including the initiating member required for a call-in to be valid is also set out within the appendix.
- 6.5 The rationale for limiting those who can initiate a call-in was to ensure there was no conflict of interest. It is clear that a member of the Executive Board who was able to vote on the decision can't initiate a call-in but it was also considered appropriate that members of the Scrutiny Committee and Health Scrutiny Committee should not be able submit a call-in notification as they would sit on the committee that would determine the call-in and there could be potential for the perception of pre-determination and/or prejudice to the consideration of the call-in.
- 5.6 The proposed amendments also give advice and guidance as to how members of the Scrutiny Committee and Health Scrutiny Committee should act at a meeting to determine a call-in if they were to have initiated or signed the call-in notice.
- 6.6 In terms of the legislative requirements for the call-in protocol this is largely contained within Paragraph 9F of Part 1A of the Act (inserted by Schedule 2 of the Localism Act 2011). These

regulations only require a Local Authority to ensure that arrangements are in place to allow for decisions that have been made but not yet implemented to be scrutinised and does not set specific requirements as to how this should be done.

6.7 Due to the open nature of the legislation set out above the call-in process differs considerably in different Local Authorities in terms of issues such as grounds for call-in, deadlines, who can initiate a call-in, timescales for hearing the matter etc.

6.8 When establishing the existing protocol guidance was taken from the New Council Constitution Guidance that was provided after the implementation of the Act, key extracts of which are set out below:

*Local authorities should also agree how called-in decisions are responded to. If an Overview and Scrutiny Committee examines a decision and decides to recommend an alternative course of action, local authorities should set out how this should work. In particular local authorities should consider the following questions:*

- *how should the executive (or other body within the local authority as the case may be) respond?*
- *what should the timescale for such a response be?*

*Local authorities should ensure that the executive arrangements ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making. In particular the executive will, from time to time, need to take decisions which need to be implemented quickly. Local authorities will need to develop local conventions and protocols to prevent abuse of an Overview and Scrutiny Committee's power to recommend that a decision made, but not yet implemented, be reconsidered. Local authorities should keep the operation of any call-in arrangements under review to ensure that they are not abused with an associated negative effect on the efficiency of executive decision making.'*

6.9 It is considered that the proposed changes (wording contained within the appendix) opens up the opportunity for more elected members to request the call-in of a decision whilst balancing the procedure against the guidance set out at paragraph 6.8 above. The Sub-Committee are asked to consider the proposed amendments to the current call-in protocol as set out within the protocol.

## **7. STATUTORY CO-OPTED MEMBERS**

7.1 In accordance with the Education Act 1996 and as set out within Article 6 – Co-option – Education Function of the Constitution the Council retains four spaces for co-opted members on any Overview and Scrutiny Committee which is responsible for education matters. The details of the requirements for the co-opted members are set out below:

- (a) Church of England Diocese representative (by appointment)
- (b) a Roman Catholic Diocese representative (by appointment)
- (c) two Parent Governor representatives (by Election)

7.2 The Constitution states at Article 6, which is attached at Appendix D that the co-opted members will be voting members of the Building Stronger Communities Policy Committee and the Scrutiny

Committee but will only be voting members on those issues which relate to the education function as set down in the above mentioned legislation.

7.3 Currently the Council has two vacancies for both Parent Governor Representatives and has one vacancy for the Church of England Diocese representative with previous attendance of the representatives at the relevant meetings being low given the small amount of business relating to the education function being considered. Given that the Council has more limited responsibility for education matters since the advent of academies the Sub-Committee is invited to review the arrangements for maintaining co-opted members of the Building Strong Communities Policy Committee and the Scrutiny Committee with suggested alternative set out below:

- (a) Retain statutory co-opted members on both the Building Strong Communities Policy Committee and the Scrutiny Committee
- (b) Retain statutory co-opted members on only the Scrutiny Committee

7.4 If the Sub-Committee were minded to retain the statutory co-opted members on both committees the co-opted members could be invited to attend only those meetings where a matter relating to the education function is being considered. If statutory co-optees are serving on two committees as set out at option (a) above the Sub-Committee need to consider whether it would be appropriate for them to take part in a call-in process where their contribution by way of the Policy Committee has influenced the respective Executive Board decision.

## **8. LEADERS ANNOUNCEMENTS**

8.1 At the last meeting of the Sub-Committee it was suggested that amendments be made to Section A - Council Procedure Rules, paragraphs 7.1 (a) (vi) and (b) (vi) to specify that a written copy of the Leader's Announcements should be circulated by the Thursday prior to the Council meeting in order to allow members sufficient time to read and digest the information. The Sub-Committee is invited to consider this amendment as outlined within Appendix E.

## **9. URGENT DECISIONS 'KEY' AND 'NON KEY**

9.1 It has been noticed that Section B – Executive Board Procedure Rules, paragraph 14.4 states that when an urgent item is required to be considered by the Executive Board approval is required by the Chairperson of the relevant Policy Committee. It was noted that current practice was for approval to be sought from the Chairperson of the Scrutiny Committee rather than a Policy Committee.

9.2 When the Council moved from committee system to a Leader and Cabinet system an amendment was made to the Constitution which renamed the relevant Scrutiny Committee as it was to the relevant Policy Committee. It is thought that this was done in error and it is both best practice and current practice for the Chairperson of the Scrutiny Committee to approve such a request. The Sub-Committee is requested to approve the amendment to the Chairperson of the Scrutiny Committee in order to reflect current practice.

## **10. CHANGE IN STRUCTURE OF SENIOR MANAGEMENT TEAM**

- 10.1 Following on from the recent restructure of the Senior Management Team amendments to the Constitution at Article 11, Officers and Appendix 4, Directors and Assistant Directors in order to reflect the change in job titles and structure of the organisation were approved by the Sub-Committee at its last meeting and will be recommended to Full Council for approval.
- 10.2 The details of the amendments are set out within Appendix A of this report.

## **11. MISCELLANEOUS AMENDMENTS**

- 11.1 At its last meeting on 7 February 2019 the Sub-Committee considered and approved numerous miscellaneous and consequential amendments to the Constitution as outlined within Appendix A of this report. These amendments will be recommended to the Annual Meeting of Full Council on 20 May 2019 for approval.

## **12. RECOMMENDATIONS FROM STANDARDS SUB-COMMITTEE**

- 12.1 At its meeting on 20<sup>th</sup> March 2019, the Standards Sub-Committee considered the recent report from the Committee for Standards in Public Life published in January 2019 entitled "Local Government Ethical Standards". The Standards Sub-Committee considered the report and the recommendations and have instructed the Monitoring Officer to undertake a list of actions to assist in making sure that the Council follows best practice. Some of this work includes amendments to the Councillors' Code of Conduct. At appendix G to this report the Code of Conduct is shown with the changes proposed by the Standards Sub-Committee. The Code of Conduct has to be adopted by the Council and accordingly if the aforementioned changes are supported by this Sub-Committee, full Council will be asked to both approve and adopt the amended Code of Conduct. The changes refer specifically to the suggestion to make reference to harassment and bullying in the code and to seek a requirement that Councillors co-operate with any standards investigation. It should be noted that some areas of best practice, as recommended by the Committee for Standards in Public Life Report are already in place and other recommendations can be introduced without requiring changes to the Constitution.

## **13. FINANCIAL CONSIDERATIONS**

- 13.1 The financial implications of the current proposals can be met from within existing resources.

## **14. RISK ASSESSMENT**

- 14.1 All recommendations are consistent with the legal requirements relating to the conduct of local authority meetings.

## **15. EQUALITIES ISSUES**

- 15.1 There are no equalities issues arising from the proposed revisions to the Constitution.

**16. CONSULTATION**

16.1 The Constitution Sub-Committee consists of members from all political parties and provides the opportunity for members to be consulted on proposed amendments to the Constitution.

**17. REASONS FOR RECOMMENDATION**

17.1 To enable to the Council to discharge the Council’s statutory duty to maintain the Constitution.

**18. RECOMMENDATION**

18.1 That the Sub-Committee recommends to Full Council the above proposed amendments to the constitution referred to in this report as outlined within Appendix A and the subsequent appendices.

**19. BACKGROUND PAPERS**

19.1 The Local Government (Committees and Political Groups) Regulations 1990  
Local Government Act 2000 (as amended)  
Localism Act 2011  
New Council Constitution Guidance  
Standards Sub-Committee Report 20<sup>th</sup> March 2019, Local Government Ethical Standards Review

**Contacts for Background Papers:**

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|---------------------|--------------------------------|-----------|
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**Constitutional Amendments 2018/19**

| <b>Section</b>  | <b>Amendment</b>   |
|---|--|
| Council Procedure Rules – Supplementary Questions (Report paragraph 5)  | Section A – Council Procedure Rules – Paragraphs 13.16, 13.23, 13.25   |
| Council Procedure Rules – Leader’s Announcements (Report paragraph 9)   | Section A – Council Procedure Rules – Paragraphs 7.1 (a) (vi) and (b) (vi)   |
| Call-in Protocol (Report paragraph 6)   | Section C – Overview and Scrutiny Procedure Rules – Paragraph 12.4<br>Section D – Call-in Procedure – Paragraphs 2.2, 2.4, 4.3<br>Flowchart 1 – Submission and Validity of Call-In   |
| Urgent Items (Report paragraph 10)  | Section B – Executive Board Procedure Rules, paragraph 14.4 – Replace Chairperson of the Policy Committee with Chairperson of the Scrutiny Committee   |
| Statutory Co-opted Members (Report paragraph 8)   | Article 6 – The Overview and Scrutiny Function – Paragraph 6.3 – Co-option – Education Function  |
| Senior Management Structure (Throughout) (Report paragraph 11)  | Section 11 – Officers – Paragraph 11.3 Chief Officers<br>Appendix 4 – Directors and Assistant Directors<br>References to the Executive Director – Economic Regeneration, Growth and Environment amended to Director of Environment and Transport<br>References to the Assistant Director of Human Resources amended to Assistant Director of Customer and Business Transformation<br>References to the Head of Democratic and Member Services amended to |
| Miscellaneous Amendments (Throughout) (Report paragraph)<br>As found in paragraph 9 of the Proposed Constitutional Amendments report to the 7 February Constitution Sub Committee | Section A – Council Procedure Rules – Paragraph 7.1 (b)(vi)<br>Section A – Council Procedure Rules – Paragraph 7.1 (b) (ix)<br>Section A – Council Procedure Rules – Paragraph 13.1 (c)<br>Section C – Powers of Officers – Paragraph 1.11<br>Section C – Powers of Officers – Paragraph 2.2.2<br>Section C – Powers of Officers – Paragraph 1.9   |

Council Procedure Rules – Supplementary Questions

*Constitution extract from Section A – Council Procedure Rules*

**By Members of the Public**

- 13.12 A member of the public may ask a question at an ordinary meeting of the Council.
- 13.13 A member of the public must give notice of the question, in writing or by electronic mail, by delivering it to the [Head of Democratic and Member Services](#) by not later than noon four clear working days before the date of the meeting at which the question will be put. The questioner must include their name and address in the notice.
- 13.14 At the meeting the questions will be put in the order they are received by the [Head of Democratic and Member Services](#) who will record on each notice the date and time received.
- 13.15 At any one meeting no person, or body or organisation if the question is submitted on its behalf, shall be permitted to submit more than one question.
- 13.16 No more than three questions shall be put at any one meeting and a time limit of five minutes shall apply per question to cover the asking of the question, ~~and~~ the response and any supplementary question and response. Inclusive of the five minute limit, the supplementary question has a time limit of 30 seconds for the question to be asked. Public question time at any one meeting will not therefore exceed fifteen minutes. The Civic Mayor where he/she feels it is convenient and conducive to the dispatch of business may require similar questions to be grouped together.
- 13.17 Where more than three question are received for any one meeting, the Civic Mayor may decide that those not dealt with be replied to in writing after the meeting or referred to a subsequent meeting.
- 13.18 Any question or part of a question which in the opinion of the Head of Legal and Democratic Services falls within any of the categories set out below will be rejected in whole or part by him/her as not valid –
- (i) it does not relate to a matter for which the Council has powers, duties or responsibilities;
  - (ii) it does not affect the Borough;
  - (iii) in his/her opinion is defamatory, frivolous or likely to give offence;
  - (iv) it is substantially the same as a question which had been put or responded to under this procedure in the previous six months;
  - (v) it cannot be responded to without disclosing confidential or exempt information;
- 13.19 The [Head of Democratic and Member Services](#) will keep a record of all questions received under this procedure including any which are rejected.
- 13.20 Where a question is declared valid it will be copied to the Civic Mayor, the appropriate Member to respond and relevant officers as determined by the Head of Legal and Democratic Services.

- 13.21 Copies of all valid questions will be circulated to all Members in advance of the meeting and to members of the public who are present at the meeting.
- 13.22 At the meeting the Civic Mayor will invite the questioner to ask their question. The Councillor who has responsibility will respond. Where a person is unable to be present to put their question they may nominate someone else to put the question on their behalf as originally submitted. Where no one is to be nominated, a written reply will be sent to the questioner.
- 13.23 Once the Councillor responsible has replied, the questioner may ask one supplementary question which must relate to the answer just given. The supplementary question should not seek to introduce new information, extend the area of the original question, be unduly lengthy or expressed in inappropriate terms taking into account Rules 13.6 and 13.7 above.
- 13.2~~4~~3 In relation to the question or a supplementary, the Councillor may decline to answer, may reply orally or in writing or may reply by reference to a published document or work of the Council or a relevant body.
- 13.2~~5~~4 There can be no debate on any matter or issue raised. However, a Member may move that a matter or issue raised by a question be referred to one of the Council's subordinate bodies for consideration. On being seconded, the motion shall be put to the vote, without debate.

Call-in Procedure

Constitution extract from Section D – Call-in Procedure

**PROTOCOL ON THE USE OF THE CALL-IN PROCEDURE**

**UNDER THE OVERVIEW AND SCRUTINY PROCEDURE RULES**

**1. Reasons for a Call-In**

An Executive Decision may only be called-in if the decision was not taken in accordance with the Principles of Decision Making set out at Article 12 of the Constitution.

**2. How to call-in a Decision**

2.1 Rule 12.1 of the Overview & Scrutiny Procedure Rules states that call-in should only be used in exceptional circumstances where members of Policy Committees have evidence which suggests that the decision was not taken in accordance with the principles set down in Article 12. Members should also take into account guidance that call-in should not be abused or cause unreasonable delay to decision making.

2.2 The Member initiating the call-in must ~~be a Member of a Policy Committee, must not also be a Member of the Scrutiny Committee or Health Scrutiny Committee~~ not be a Member of the Executive Board, and must ensure that the call-in is made within five clear working days of the decision to be called-in being made.

2.3 A “Call-in” form is available on the Council’s Intranet or from Democratic and Member Services. The Member initiating the call-in must indicate on the form the following:-

- the unique reference number of the relevant decision
- the title of the decision
- the publication date of the decision.
- his/her own name
- the initiating Members
- the principle(s) of decision making which it is alleged has (have) not been adhered to
- a brief note of the evidence to support the call-in

2.4 The Member initiating the call-in must sign the form and obtain the signatures of at least ~~four~~ two other ~~Members of any Policy Committee, who are not also Members of the Scrutiny Committee or Health Scrutiny Committee,~~ Members of the Council who are not members of the Executive Board, who wish to support the call-in.

2.5 An Urgent Decision in accordance with Paragraph 14.4 of Section B (Executive Board Procedure Rules) of Part 4 of the Constitution may not be called-in.

2.6 On completion of the form, the Member initiating the call-in must submit it to the ~~Head of Democratic and Member Services~~, to be received by no later than five clear working days after the relevant decision was made. The form may be sent by email.

### 3. Validity of the Call-In

- 3.1 The Monitoring Officer or in their absence the Deputy Monitoring Officer or the ~~Head of Democratic and Member Services~~ shall determine the administrative validity of the call-in notice.
- 3.2 Determination as to administrative validity of the call-in notice should normally be made immediately, or as soon as reasonably practicable before the expiry of the call-in period.
- 3.3 For the purposes of determining the administrative validity of the notice, the Officer concerned will confirm that the proper form has been completed and the necessary information provided and will carry out the tests set out at Paragraphs 3.4 below.
- 3.4 The relevant Officer will consider whether :-
- the decision is an Executive Board Decision, or a Key Decision taken by a relevant body
  - the period of five clear working days since taking the decision has not expired
  - the decision was not an Urgent Decision
  - the call-in notice has been signed by at least three eligible Members.
  - an alleged breach of the principles of good decision making has been identified
  - a brief statement of supporting evidence for each alleged breach has been provided
- 3.5 The relevant Officer will not consider the merits of the case with regard to the reasons for call-in when reaching a decision about the administrative validity of the notice. This is a matter for the relevant Scrutiny Committee to determine.
- 3.6 The relevant Officer will notify the Member initiating the call-in, normally by e-mail, of the determination as to the validity of the call-in and, where the notice is deemed to be invalid, giving the reasons.
- 3.7 If the call-in is valid, the relevant Officer will inform the ~~Head of Democratic and Member Services~~ without delay, who will then notify the following persons that a valid call-in has been received and that the decision must not be implemented.
- the Decision Taker, or Chair of the body which made the original decision;
  - the Executive Board Member;
  - the relevant Strategic Director; and
  - the Chair of the relevant Scrutiny Committee (see Paragraph 4 below).

### 4. The Relevant Scrutiny Committee

- 4.1 The call-in will be referred to the Scrutiny Committee, unless it relates to a decision regarding health and wellbeing, in which case it will be referred to the Health Scrutiny Committee.

~~4.2~~ The Policy Committees shall have no role in the consideration of a matter which has been called in, except as under Paragraph 12.5.

~~4.24.3~~ Where a member of the Scrutiny Committee or Health Scrutiny Committee initiates or signs a call-in they should consider whether in doing so they have pre-determined the decision to be

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taken by the committee in relation to the call-in and act accordingly by either stepping down from the meeting or remaining in the meeting but taking no part in the decision.

Call-in Protocol – Overview and Scrutiny Procedure Rules

*Constitution extract from Section C – Overview and Scrutiny Procedure Rules*

**12. “Call-in” Procedure (save with regards to matters outside the Policy and Planning Framework and Budget – see 16 below)**

- 12.1 Call-in should only be used in exceptional circumstances, where Members of Policy Committees have evidence which suggests that the decision was not taken in accordance with the principles set out in Article 12 (Decision Making).
- 12.2 When an Executive decision is made by the Executive Board, an individual or a Committee or Sub-Committee of the Board, or a Key Decision is made by an Officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 clear working days of being made. All Members of the Council will be sent copies of the record of all such decisions within the same timescale, by the person responsible for publishing the decision. The normal practice is to use electronic methods given the short timescale imposed.
- 12.3 Subject to paragraphs 12.4 and 12.5 below a decision taken and to which paragraph 12.2 above refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 12.4 Where an Executive decision has been made and has not been implemented, any ~~three or more~~ Member of the Council, except those who are members of the Executive Boards of a Policy Committee, except those Policy Committee Members who are also Members of the Scrutiny Committee or Health Scrutiny Committee, may submit a call-in notice, in writing, within the period specified in paragraph 12.3 above, to the Head of Democratic and Member Services. The notice must state the reasons for exercising the call-in facility which must be based upon the principles of good decision making set down in Article 12.6 and the notice must be signed by a further four eligible Members of the Council. Where the notice is valid the decision cannot be implemented until the procedures in this section have been followed. Where a valid notice is received the decision shall stand referred to the next meeting of the Scrutiny Committee or Health Scrutiny Committee, as appropriate, for advice.

Statutory Co-optees – Education Function

*Extract from Article 6 - Overview and Scrutiny Procedure Rules*

**3. Co-option**

- 3.1 There are four statutory co-optees in respect of education functions, as follows:-
- a) a Church of England Diocese representative (by appointment);
  - b) a Roman Catholic Diocese representative (by appointment); and
  - c) two parent governor representatives (by election).
- 3.2 These statutory co-optees are voting members of the Building Stronger Communities Policy Committee and the Scrutiny Committee, but will also be invited to attend other Scrutiny bodies where wider Children's Services matters are under consideration.
- 3.3 At the Committee and at those other bodies the statutory co-optees may speak on other non education matters, but may vote only at meetings of which they are full members on issues which relate to the functions of the Council acting as the education authority.
- 3.4 Every Scrutiny body shall be entitled to appoint persons to be non-voting co-optees of that body taking into account any advice or guidelines issued from time to time by the Council. Such co-options may be related to a prescribed period of office or to specific issues under consideration. Each Scrutiny body shall review any non-statutory co-option arrangements on an annual basis. Any person co-opted under these arrangements will be entitled to participate fully in the work of the body to which they have been appointed subject to any conflicts of interests.

Council Procedure Rules – Leader’s Announcements

*Constitution extract from Section A – Council Procedure Rules*

**7. Order of Business**

7.1 The order of business at meetings of the Council shall be as set out below:

(a) The Annual Meeting

- (i) Election of a Councillor, other than a Member of the Executive Board, to preside if the Civic Mayor, or the Deputy Civic Mayor, are not present.
- (ii) Election of the Civic Mayor;
- (iii) Election of the Deputy Civic Mayor;
- (iv) Declaration of Interests and apologies for absence by Councillors;
- (v) Minutes of the last meeting;
- (vi) ~~“Announcements from the Civic Mayor followed by announcements from the Leader, with written updates from the other members of the Executive Board (and questions thereon (Rule 13)), (A written copy of the Leader’s Announcements should be circulated by the Thursday before the Annual Meeting to allow Members time to read and digest it)”. Announcements from the Leader (and questions thereon), and Civic Mayor (A written copy of the Leader’s Announcements should be circulated in sufficient time before the Annual Meeting to allow Members time to read and digest it);NB this item to be dealt with after the appointment of the Leader.~~
- (vii) Announcement of results of Borough elections as appropriate.
- (viii) Election of Leader and noting appointment of Deputy Leader of the Council;
- (ix) Noting appointment of the Executive Board;
- (x) Determine the size and membership of the Council’s Committees and Sub-Committees and any changes to the terms of reference;
- (xi) Appointment of the Chairpersons and Deputy-Chairpersons of the Council’s Committees and Sub-Committees;
- (xii) Approve the allocation of seats on relevant member bodies in accordance with the rules on political balance;
- (xiii) Approve the programme of meetings for the Council and its sub-ordinate bodies as determined from time to time;
- (xiv) Approve any changes to the Constitution;
- (xv) Determine any other business as set out in the Council Summons and Agenda;
- (xvi) Urgent business;

(b) Ordinary Meetings

## Appendix E

- (i) Election of a Councillor, other than a Member of the Executive Board, to preside if the Civic Mayor or the Deputy Civic Mayor are not present;
- (ii) Business required to be conducted by law before any other items;
- (iii) Approve minutes of the last meeting;
- (iv) To note any written responses and associated correspondence in relation to questions asked and debate at the previous Council meeting. Correspondence should be noted and not debated further. Any further issues relating to the issues raised in the correspondence can be discussed with the Chief Executive outside of the formal meeting;
- (v) Receive declarations of Interests and apologies for absence;
- (vi) Receive announcements from the Leader (and questions thereon) and Civic Mayor (A written copy of the Leader's Announcements should be circulated by the Thursday in sufficient time before the Meeting to allow Members time to read and digest it);
- (vii) Receive and respond to public questions (Rule 13)
- ~~(i)~~ ~~(viii)~~ Deal with any outstanding business from the last Council meeting;
- ~~(i)~~(ii) Approve any changes to the Constitution
- (ix) Receive any reports from the Executive Board and any Committees or Sub-Committees;
- (x) Receive questions from Members of the Council (Rule 13);
- (xi) Receive reports, minutes and questions and answers concerning the business of joint arrangements and external organisations;
- (xii) Consider Notices of Motion;

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Urgent Items – Scrutiny Committee*Constitution extract from Section B – Executive Board Procedure Rules***12. Urgent Decisions ‘Key’ and ‘Non Key’.**

- 13.1 Key Decisions to be taken by the Executive and which are not on the Forward Plan of Key Decisions will be dealt with according to the “General Exemption Rule” in the Access to Information Procedural Rules (Rule 13).
- 13.2 Where Key Decisions need to be taken urgently and the General Exemption Rule in the Access to Information Procedural Rules cannot be applied the “Special Urgency of Key Decisions” in the Access to Information Rules (Rule 14) shall apply.
- 13.3 Where either a Key Decision or a Non Key Decision is needed urgently and cannot for reasons of urgency be referred to the next meeting of the Executive Board, and with regards to Key Decisions Rule 14 of the Access to Information Rules has been complied with, the matter shall normally be referred to an Extraordinary Meeting of the Executive Board.
- 13.4 In the event that the ~~Head of Legal and Democratic Services~~ is of the opinion that a quorate Extraordinary Meeting of the Executive Board cannot be called within the timescales required due to the urgency of the matter then exceptionally the Leader or Deputy Leader may determine the matter after informing the Leader (or in their absence the Deputy Leader) of the Opposition and the Chairperson of the Scrutiny ~~relevant Policy~~ Committee and having taken advice from the relevant Officers.

## CODE OF CONDUCT FOR MEMBERS – 2012

The Code has been adopted under section 27 of the Localism Act 2011 and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.

### **A General obligations**

Whenever you are acting as a member or co-opted member of this authority you must act in accordance with the following obligations:

#### *Selflessness*

- 1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

#### *Integrity*

- 2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

#### *Objectivity*

- 3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

#### *Accountability*

- 4 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.

#### *Openness*

- 5 (a) You must be as open and transparent as possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.

(b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted.

*Honesty*

6 (a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Section B below.

(b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

*Respect for others*

7 (a) You must treat others with respect. You should engage with colleagues and staff in a manner that underpins mutual respect, essential to good local government.

(b) You must not do anything which may cause your authority to breach any equality laws.

(c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.

(d) You must not bully any person, including other councillors, officers of the authority or members of the public.

*Leadership*

8 You must promote and support high standards of conduct when serving as member or co-opted member of the authority, by leadership and example, championing the interests of the community.

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

**B Registering and declaring pecuniary and non-pecuniary interests**

1. Registering and declaration of interests should be made in accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

2. If you are present at a meeting and you have a Disclosable Pecuniary Interest

- (a) you must not participate in any discussion of the matter at the meeting and you must not vote on the matter.
  - (b) you must make a verbal declaration of that interest if an item of business affects or relates to that interest, at or before the item is considered or as soon as the interest becomes apparent.
  - (c) you must leave the room where the meeting is held during any discussion or vote
3. Where a matter arises at a meeting which relates to an interest in
- any body to which you have been appointed or nominated by the Council
  - any body exercising functions of a public nature (for example a school governing body or another Council).
  - any body directed to charitable purposes
  - any body one of whose principle purposes includes the influence or public opinion or policy
- (a) you must make a verbal declaration of that interest if an item of business affects or relates to that interest at or before the item is considered or as soon as the interest becomes apparent.
  - (b) you must consider whether the nature and extent of the interest is such that you are unable to consider the matter fairly or objectively.
  - (c) if you consider you are unable to consider the matter fairly or objectively you must not participate in any discussion or vote upon the matter.
4. All declarations will be recorded in the minutes of the meeting at which the declaration is made.

\*A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.