



# Uttlesford District Council

Chief Executive: Dawn French

## Constitution Working Group

**Date:** Wednesday, 22 March 2017  
**Time:** 18:00  
**Venue:** Committee Room  
**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** Councillors R Chambers, A Dean, J Freeman, S Harris, B Light, E Oliver, V Ranger (Chairman)

### AGENDA PART 1

#### Open to Public and Press

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| 1 | Apologies for absence and declarations of interest      |         |
| 2 | Minutes of the Meeting on 27 September 2016             | 3 - 6   |
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**CONSTITUTION WORKING GROUP held at COUNCIL OFFICES  
LONDON ROAD SAFFRON WALDEN at 7.00pm on 27 September 2016**

Present: Councillor V Ranger (Chairman)  
Councillors R Chambers, A Dean, B Light and E Oliver

Officers present: D French (Chief Executive), S Pugh (Interim Head of Legal Services) and P Snow (Democratic and Electoral Services Manager)

**CWG8 INTRODUCTION**

The Chief Executive introduced Simon Pugh as the Interim Head of Legal Services.

**CWG9 MINUTES**

The Minutes of the meeting held on 21 July 2016 were approved and signed by the Chairman as a correct record.

**CWG10 MATTERS ARISING – CWG5 – Deletion of Matters Arising from agenda**

There was a brief discussion about whether matters arising should be omitted from committee agenda but this was the subject of a specific report to be covered later in the meeting.

**CWG11 DELETION OF 'MATTERS ARISING' FROM AGENDAS**

The Working Group had previously agreed to recommend to Council the deletion of matters arising from agendas by deleting Procedure Rules 1.1.4 and 2.3. As there had not been a written report to that meeting members were invited to consider the matter again.

The Interim Head of Legal Services confirmed that it was not common in local government to include matters arising for discussion and that it was generally considered as bad practice. The report recommended deleting the requirement to include this item on Council and Annual Council agendas.

Members discussed the principles and practicalities involved in deleting this item from consideration. A lot of the discussion revolved around whether members would retain sufficient opportunities to raise items of concern in the absence of specific discussion on the content of the minutes.

The Chief Executive said that the procedure rules allowed any member to propose a motion for inclusion on the agenda for any Council or committee meeting and there was a similar provision in the executive rules enabling any member to ask the Leader to put an item on the agenda for consideration at a Cabinet meeting.

It was also the case that matters of concern could be taken up with senior officers outside of a meeting. The Chief Executive said that working group

proceedings were not subject to the procedure rules. The point about not including matters arising at public meetings was to enable the public to be aware in advance of matters being considered.

In response to a question the Interim Head of Legal Services said that the difference between a committee and working group was that committees were decision making bodies exercising delegated powers but that working groups were not. The purpose of working groups was to enable detailed work to be undertaken so that committees could concentrate on making policy decisions.

The point was made that members had the opportunity to channel any concerns through their group leader if they were unwilling to raise the matter directly themselves and this usually resulted in a swift resolution. Equally they had the option to approach officers or the relevant portfolio holder. The purpose of democracy was not to stifle debate but to enable it to function.

The Chief Executive said her impression was that members generally thought more about subjects listed on the agenda as this allowed the opportunity for them to be proactive, rather than reactive.

Members generally agreed that good practice dictated the need for matters of concern to be included on the agenda to aid transparency.

Another suggestion was for the inclusion of action points on agendas so that progress could be measured against actions taken. The Interim Head of Legal Services said there were other ways of raising matters of concern so that information could be reported back more informally, such as through the mechanism of the members' bulletin, or by sending a circular.

It was AGREED to recommend to Council the deletion of the head of business "deal with any matters arising from those minutes" in paragraphs 1.1.4 and 2.3 of the Procedure Rules.

CWG12

## **PROCEDURE FOR CANCELLING SCRUTINY CALL-INS**

The Interim Head of Legal Services proposed putting in place a procedure by which Scrutiny Committee meetings could be cancelled in the event that members calling in a decision subsequently concluded that call-in was not necessary. He suggested adding a paragraph to the Overview and Scrutiny Procedure Rules as follows:

*"9.13 A call-in request under paragraph 9.3 may be withdrawn at any time up until the Scrutiny Committee meets to consider the decision called in. If a request for call-in is withdrawn by all members who made it, then subject to the agreement of the Chairman, a Scrutiny Committee to consider the decision shall either not be summoned or shall be cancelled. For the avoidance of doubt, the meeting shall go ahead if the Chairman of the Scrutiny Committee decides that this is in the public interest. Information about any call-in requests that are withdrawn under this provision shall be included on the agenda for a future meeting of the Scrutiny Committee."*

The Chairman of the Scrutiny Committee said that a decision notice issued as required to allow for the call-in process to operate could be updated to indicate that call-in had been requested and subsequently withdrawn.

There was overall agreement that the insertion of the proposed paragraph would provide a suitable mechanism to avoid unnecessary meetings taking place without jeopardising the scrutiny process.

It was AGREED to recommend the Council the inclusion of the proposed paragraph 9.13 as set out in full on the previous page.

CWG13

## **UPDATING THE CONSTITUTION**

The Interim Head of Legal Services proposed allowing specified changes to the Constitution to be made without reference to Full Council in the circumstances outlined in the following amended Article 15.2:

### **15.2 Changes to the Constitution**

*15.2.1 Subject to Article 15.2.3, changes to the constitution may only be made by the Full Council after consideration of the proposal by the Constitution Working Group.*

*15.2.2 In the event that the Council considers amending the constitution to provide for a mayor and cabinet form of executive it must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum*

*15.2.3 The Monitoring Officer may approve drafting changes in these circumstances:*

- To update the Council's scheme of delegation where responsibility for a function the subject of delegated powers is moved from one officer to another; for instance, following a departmental restructuring or to reflect changes in job titles or the management structure.*
- To reflect changes to delegations to officers made by regulatory committees or by the Cabinet.*
- To reflect changes in responsibilities of members of the Cabinet, as determined by the Leader.*
- To update references in the Constitution to legislation where an Act of Parliament is replaced by another Act in substantially similar terms or to reflect changes which are required by new legislation which the Council has no choice but to make.*
- To correct obvious errors or to better give effect to the clear intention of the Constitution.*

He said the effect would be to formalise what already happened in any case. The Chairman asked that the word "routine" be inserted into proposed paragraph 15.2.3 as in: "15.2.3 The Monitoring Officer may approve *routine* drafting changes in these circumstances:". On this basis the Working Group AGREED to recommend accordingly to Council.

**PUBLIC ENGAGEMENT MEMBER TASK GROUP**

The Chairman asked members to agree to a brief discussion about the process to agree alternative arrangements to replace area forums in engaging with the public.

The Chairman had suggested that the Scrutiny Committee was the correct body to explore options for public engagement as the functions of the Committee included the encouragement of community participation in the development of policy. However, the Chairman Scrutiny Committee had not been willing to take this matter on board and he then explained his reasons for coming to that view.

Other options were then discussed including the possibility of the terms of reference for the newly established Youth Engagement Working Group being expanded to incorporate public engagement. The Chief Executive said that she would discuss these options with group leaders with a view to working out the best route to achieve the objectives set by the Council.

The meeting ended 7.30pm

**Committee: Constitution Working Group**

**Agenda Item**

**Date: Wednesday 22<sup>nd</sup> March**

**3**

**Title: Member Officer Protocol**

**Author: Simon Pugh**

Item for decision:  
yes

## **Summary**

This report proposes a revision of the Member Officer protocol, which sets some ground rules for the relationship between members and officers. Members views are sought with a view to recommending its adoption at the full Council meeting on 4 April.

## **Recommendation**

That members recommend the revised Protocol for adoption by the Council.

## **Financial Implications**

1. None.

## **Background Papers**

2. There are no background papers to this report.

## **Impact**

- 3.

Communication/Consultation	One of the objectives in revising the Protocol is to improve communications and consultation between officers and members..
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None, provided that substitutes are properly appointed..
Sustainability	None.
Ward-specific impacts	The revised protocol encourages officers to keep members informed about issues in the ward they represent. .

Workforce/Workplace	This will affect Council employees, who will need briefing about revisions to the Protocol. .
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## Situation

4. As part of its constitution, the Council has a member/officer protocol. This is designed to ensure clarity of roles between members and officers, to set out some rules of behaviour and to provide a mechanism for dispute resolution.
5. The Monitoring Officer has been reviewing the Member/Officer Protocol and has prepared a revised version. The revision is intended:
  - To address some issues raised by members and by officers;
  - To place more emphasis on partnership working between members and officers.
6. The two versions are not radically different. As mentioned, the proposed version places greater emphasis on members and officers working in partnership. It also makes more explicit their roles and expectations, with particular emphasis on the role of members as ward councillors. The proposed version also encourages members to visit officers by appointment and to avoid contacting them outside office hours.
7. There is an overlap between the CWG and the Standards Committee, and members of the Standards Committee have expressed interest in the revision of the Protocol. The draft is being shared with the Standards Committee as well as the CWG and Standards Committee members have been invited to comment on the draft and to attend the CWG meeting.
8. The current protocol is attached as Appendix A and the proposed version forms Appendix B.

## Risk Analysis

9.

Risk	Likelihood	Impact	Mitigating actions
Meetings are not quorate if members are unable to attend and the Council has not appointed substitutes.	2.	1	Meetings may have to be rearranged.



That substitutes, if appointed, will not have the knowledge or training to make proper decisions.	2.	2.	Ensure that substitute members receive agendas and are invited to briefings. Require substitute members to meet the same training requirements as principal members.
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## Appendix A CURRENT MEMBER/OFFICER PROTOCOL

### 1. Introduction

- 1.1 The purpose of this Protocol is to promote positive relationships between members and officers of the Council so as to ensure the smooth running of the Council. It is not a statutory requirement and therefore has the status of guidance. However, adoption of this protocol by the Council demonstrates commitment to its principles and the Council expects all members and officers to comply with it. The protocol may also be taken into account by Standards Committee when considering complaints.
- 1.2 Given the variety and complexity of member/officer relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

### 2. Role of Members/Officers

- 2.1 The Council's Code of Conduct for Members sets out a number of general, mandatory obligations including the following:
- 2.2 A member must treat others with respect and must not:
  - 2.2.1 do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - 2.2.2 bully any person;
  - 2.2.3 intimidate or attempt to intimidate any person who is or is likely to be:
    - 2.2.3.1 a complainant,
    - 2.2.3.2 a witness, or
    - 2.2.3.3 involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including him/herself) has failed to comply with the Council's Code of Conduct;
  - 2.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- 2.3 Members undertake many different roles. Broadly these are:
  - 2.3.1 As politicians - expressing political values and supporting the policies of the group to which they belong;

- 2.3.2 As representatives and advocates - representing the ward and the citizens who live there;
  - 2.3.3 As decision makers - on Full Council, the executive, committees or on partnership organisations;
  - 2.3.4 As policy makers - developing and reviewing policy and strategy;
  - 2.3.5 Providing scrutiny and overview – monitoring and reviewing policy implementation and service quality;
  - 2.3.6 As regulators - regulating certain activities e.g. planning, licensing;
  - 2.3.7 As employers - responsible for the employment conditions and policy direction of the paid workforce;
  - 2.3.8 As community leaders and networkers - through active partnerships with other organisations.
- 2.4 In broad terms, officers have the following main roles:
- 2.4.1 managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services and for proper practice in discharging their responsibilities;
  - 2.4.2 providing advice to the Council, the executive, committees, sub-committees and members in respect of its services;
  - 2.4.3 initiating policy proposals as well as implementing agreed Policy;
  - 2.4.4 ensuring that the Council always acts in a lawful manner.
- 2.5 Officers thus give professional advice to members who then make decisions for which they are accountable. Members' decisions are collective. They should not expect to receive information about decisions relating to individual residents except where the constituent has raised a concern with the member.

### **3. Relations between Members and Officers**

- 3.1 The General Principles of Conduct in Local Government also includes respect for others. Members should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
- 3.2. These principles of the objectivity of officers and the mutual respect of roles are paramount. It is vital that any dealings between members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 3.3. Officers serve the Council through the executive, committees and sub-committees of the council or the executive and working groups. They work to the instructions of their senior officers - not individual members of the Council, whatever office the member may hold. It follows, therefore, that officers must not be asked to exceed the bounds of authority they have been given by their manager nor should they have unreasonable demands placed on them in terms of support to an individual member (or members).

- 3.4. It is not enough to avoid actual impropriety. Members and officers should, at all times, avoid any occasion for suspicion and any appearance of improper conduct. Members should declare to the Chief Executive any relationship with an officer, which might be seen as influencing their work as a member or vice-versa. This includes any family, business or close personal relationship. It is not possible to define exactly the range of relationships that would be considered as close or personal. Examples, however, would include a family or sexual relationship or regular social mixing such as holidays or meals together.

#### **4. Complaints or Concerns about Officers or Services**

- 4.1 Members have the right to criticise reports or the actions taken by officers but they should always:
- avoid physical or personal attacks on or abuse of officers,
  - ensure that criticism is constructive and well founded, and
  - take up an individual concern with the officer privately, where possible.
- 4.2. Members should not raise matters relating to the conduct or capability of an officer at Cabinet and committee meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An officer has no means of responding to such criticisms in public.
- 4.3. If a member feels he has not been treated with the proper respect, courtesy or has any concerns about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, he should raise the matter with the appropriate Director or the Assistant Chief Executives. The Director or the Assistant Chief Executives will look into the matter and report back to the member. If the member continues to feel concern, they should then report it to the Chief Executive who will look into the matter afresh. A complaint about a Director or an Assistant Chief Executive should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader and/or the chief officers. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules and any statutory provisions which may apply.
- 4.4. Where an officer feels that he has not been properly treated with respect and courtesy by a member, the aim should be to try to resolve the matter informally. If he feels able, the officer should in the first instance discuss it with the member concerned. He may then wish to raise the matter with his line manager, Director, Assistant Chief Executive or the Chief Executive as appropriate. In these circumstances line manager, Director, Assistant Chief Executive or the Chief Executive will take appropriate action by approaching the individual member and/or group leader. If it does not prove possible to resolve the matter informally the officer may make a complaint to the Standards Committee in accordance with the normal procedures for complaints about members.
- 4.5. Members and officers have a duty to raise any issues where they have reason to believe fraud or corruption of any sort is involved. (See the Anti-Fraud Policy Statement below and the Council's whistleblowing procedure).

## **5. Officer Advice to Members and Party Groups**

- 5.1. It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.
- 5.2. There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. This means that, on occasions, information requested by one group will in fact be provided to all.
- 5.3. The support provided by officers can take many forms, including a briefing meeting with the executive or an executive member or the Chairman/Vice-Chairman of a committee prior to a committee meeting or a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 5.4. Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:
  - 5.4.1 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed.
  - 5.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
  - 5.4.3 Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the executive, executive member or relevant committee when the matter in question is considered.
- 5.5. Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons officers may not attend and give information and advice as they would to a members-only meeting.

- 5.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they must not relate the content of any such discussion to another party group.

## **6. Officer/Executive Members/Chairman Relationships**

- 6.1 It is clearly important that there should be a close working relationship between executive members and the Chairmen of committees and the officers who report to or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other members and other party groups. It is good practice for the lead officer for to brief an executive member or committee Chairman in advance of a meeting and similarly to brief an opposition spokesperson as required.
- 6.2. In respect of committees of the Council, lead officers are identified in respect of each committee and that officer is responsible for drawing up the agenda for committee meetings. The officers will always be fully responsible for the contents of any report submitted in their name. It is essential that any proposals from members in reports to committees are clearly identified as such.
- 6.3. At some committee meetings, a resolution may be passed which authorises named officers to take action between meetings in consultation with a member. It must be recognised that it is the officer, rather than a member, who takes the action and it is the officer who is accountable for it.
- 6.4. It should be remembered that officers within a section are accountable to their Divisional Head and that whilst officers should always seek to assist an executive member, the Chairman of a committee (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Divisional Head.

## **7. Correspondence**

- 7.1. Correspondence between an individual member and an officer, particularly when it has been initiated by the member, should not normally be copied (by the officer) to any other member. Where it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of "silent copies" should not be employed.
- 7.2. Where an officer is dealing with a specific local matter which has been raised by a member or could have significant local implications, the correspondence should be copied to the relevant ward member(s).

## **8. Media Liaison**

- 8.1 Communications with the media can be an important part of a member's workload - issuing press releases or responding to queries. In any media contact, members and officers should always have regard to the reputation of the Council. Generally, members provide comments and views and officers provide factual information. This factual information may well include explaining the Council's policy on a particular issue. If any member is unsure

about the facts of any issue he should contact the appropriate officer or ask the media representative to do so. Members should avoid being seen to anticipate decisions and should not criticise officers in the media.

- 8.2 If a member contacts or is contacted by the media he should indicate in what capacity he is speaking e.g. in a personal capacity, as a member of the executive, as a ward member, as Chairman of a committee, on behalf of the Council or on behalf of his political group. Members should avoid giving the impression they are speaking on behalf of the Council when expressing a personal view. It may be useful to advise the Communications Team or other appropriate officer, of the press release or discussion.

## **9. Conclusion**

- 9.1. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its members and officers.
- 9.2. Copies of the Protocol will be issued to all members along with other documentation (e.g. Procedure Rules) upon election.

## Appendix B: Proposed Draft

### 1. Introduction

Members and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. However, members and officers have different roles and different expectations.

This protocol is intended to:

- Ensure that there is a clear understanding of the respective roles of members and officers.
- Set out some principles governing the relationship between the two;
- Establish some ground rules for the relationship.
- Encourage mutual respect and good communication.
- Allow for the constructive and amicable resolution of any conflict.

Overall, the aim of the protocol is to provide a framework to enable members and officers to work together for the benefit of people who live in Uttlesford and for the benefit of those who work, visit, provide employment or provide services here.

### 2. Role of Members and Officers

#### 2.1 Members

Members are democratically elected and have a mandate to represent their ward and to contribute to decisions made by the Council. They are community leaders for their ward and will also often be seen by their constituents as the local representative of the Council as a whole. If constituents are unhappy about Council services, they will expect their councillor to do something about it.

Members will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made and should be respected.

Members are also usually, but not always, members of political groups. Political groups are a legitimate aspect of local government democracy.

Members are responsible for setting the budget and policy framework within which the Council works. Beyond this, members may have different roles. Some will be



members of the Cabinet and will have a wide ranging responsibility for making strategic and operational decisions on behalf of the Council. Some will be members of Scrutiny Committees, which have oversight of policies and performance. Some will be members of regulatory committees; for instance, deciding applications for planning permission and ensuring compliance with licensing conditions.

## 2.2 Officers

Officers are employees of the Council. Their roles and responsibilities will be set out in their contract of employment and job description. Some will be mainly responsible for the delivery of services and they will work within the policies and standards set by the Council. Others will have a role in developing policies and strategies and in providing professional advice aimed at ensuring that the Council operates in an effective and lawful manner.

Officers are not politicians and their loyalty is to the Council as a whole. It is important that their professional integrity and impartiality is respected, especially where they are obliged to give advice that is not welcomed.

They are also, as mentioned, employees. It is important that the Council complies with its legal obligations as employer and with good employment practice.

<b>What members can expect from officers:</b>
A commitment to the Council as a whole and not to an individual political group
A working partnership
A timely response to enquiries and complaints
Professional advice not influenced by political views or preference
Integrity, mutual support and appropriate confidentiality
Respect for their role as elected representatives.
<b>What officers can expect from members:</b>
Political leadership and direction
A working partnership
Compliance with ethical standards and probity requirements
Non-involvement in day-to-day management
Fairness
Respect for their position as employees of the Council.

## 3. Working Relationships

3.1 Officers and members will be guided by these behaviours in their working relationship:

<b>Do be:</b>	<b>Don't be:</b>
Positive	Unhelpful
Professional	Obstructive

Authoritative	Arrogant
Respectful	Discourteous
Constructive	Imprudent
Communicative	Evasive
Discreet	Secretive
Reliable	Disorganised
Friendly	Friends

3.2 Officers will provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents. They must not be requested to advise upon private matters.

3.3 Officers are employed by, and serve, the whole Council. They are politically neutral and must avoid being identified with any political party. Members must respect this.

3.4 The working relationship between senior officers and the Leader and Cabinet will be particularly close. This relationship, however, must not:

- compromise officers' duties to all Members of the Council;
- be so close as to give the appearance of partiality on the part of the officer;
- undermine the confidentiality of any discussions within the Corporate Management Team or between senior officers and other Members;
- compromise officers' professional responsibility to advise Members that a particular course of action should not be pursued;
- undermine officer responsibility for action taken under delegated powers.

3.5 It is important that in any dealings between members and officers neither should seek to take unfair advantage of their position.

3.6 A member should not apply any pressure on an officer to do work outside of normal duties or normal working hours. A member should also not, even in an emergency, contact officers, even if they have their mobile phone number. Particularly in an emergency or if a matter cannot wait until normal working hours, the correct course will be to call the Council's out of hours number (01223 849755), which will ensure a speedy and coordinated approach. Pressure should not be put on an officer to do anything that he or she is not empowered to do.

3.7 Similarly, an officer must not lobby or use influence on an individual member to make a decision in his or her personal favour. They should not raise personal matters to do with their job, nor make claims or allegations about other officers, nor make negative comments on the competency of another officer or member.

3.8 In their dealings with officers (especially junior employees), members need to be aware that it is easy for officers to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.

3.9 Members should approach officers of appropriate seniority when raising queries. Other than for routine service queries, this is likely to be at service manager level or above. If members wish to meet officers, they should generally make an appointment first. This is partly to allow officers to plan their work and partly because of the need to ensure that personal data, which may be visible in offices, is not inadvertently disclosed – for instance information relating to housing or benefit applications.

#### **4. Familiarity**

4.1 Close personal familiarity between individual members and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

4.2 Such familiarity could also cause embarrassment to other members and/or other officers and even give rise to suspicions of favouritism.

4.3 As a result care should be taken by individual members and officers in their relationship with each other. Members should declare to the Chief Executive any close family, business or personal relationship with an officer. Officers should make sure that their line manager is made aware of any similar relationship.

#### **5. Communication**

5.1 Officers should reply promptly and helpfully to correspondence, including emails, received from members. As a minimum, they should meet corporate standards for responses but should also recognise that it will sometimes be appropriate to give priority to correspondence from members. If an immediate reply is not possible, correspondence should be acknowledged and the member kept informed about progress.

5.2 Similarly, members should reply promptly and helpfully to communications from officers, especially where a member's view is sought before action is taken.

5.3 Written communication between members and officers should always be professional in tone, avoiding the appearance of over-familiarity. There is a particular risk with email of making inappropriate comments. Emails are a permanent record and may be held up to public scrutiny through, for instance, disclosure under freedom of information legislation or in the course of legal

proceedings. Officers and members should always be alert to how correspondence would appear if held up to public gaze.

5.4 Written communication may not be the appropriate first step where, for instance, the facts are uncertain or a matter is controversial. A telephone call or personal discussion should be considered instead. In all cases, the preferred communication method of individual councillors should be taken into account, if known.

5.5 If members raise issues on behalf of constituents, officers should reply in terms that will allow members to give explanations to constituents that are helpful and constructive. Whilst members will hold officers to account, members will, in turn, be held to account by their constituents for the actions of the Council.

5.6 Unless a member or officer requests confidentiality, it will be assumed that correspondence between a member and an officer is not confidential and may be shown to others. (An obvious exception is where an issue relates to an individual constituent and would normally be treated in confidence). If, in an officer's view, correspondence between an individual member and an officer is of interest to other members, to keep them fully informed, it should be made clear to the original member that copies have been sent to other members.

5.7 Where issues are raised by, or with, individual members relating to a matter of general interest in a ward, copies of correspondence may be sent to other members for the ward. However, a member may specifically request that correspondence is not copied to other members.

5.8 Official letters sent on behalf of the Council should normally be in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a member, but this should be the exception rather than the norm.

## **6. Involvement of ward councillors**

6.1 Whenever a public meeting is organised by the Council to consider a local issue, all the councillors representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting with the maximum possible notice being given. Similarly whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be consulted at the outset of the exercise.

6.2 Ward Councillors should be notified in advance about any issues likely to affect them. This would include press releases relating to a particular Ward or significant matters likely to affect a Ward.

6.3 Ward councillors should be copied into correspondence with town or parish councils within their ward unless there is a good reason not to.

6.4 Ward councillors should be consulted and involved in significant issues affecting their ward. They will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made and should be respected.

## **7. Requests for factual information**

7.1 Officers will use the Members' Bulletin as the primary means of providing factual information to members. There are other sources of information available to members, in particular the "Keep Me Posted/ Gov Delivery e-newsletter, to which members are encouraged to subscribe.

7.2 All members of the Council are entitled to request factual information from officers about a Council department or service and the information will be provided unless:

- there is a legal reason why it should not be disclosed (eg. the information is confidential or should not be disclosed under data protection principles.
- the request for information is for private purposes, rather than in connection with the member's elected role.
- the relevant Director or Assistant Director considers the request to be unreasonable in terms of the resources required to provide the information. In case of dispute, the request will be referred to the Chief Executive.

7.3 Members making requests for information should allow adequate time for officers to provide it. Requests relating to committee or Council meetings should be made well in advance. If officers are not given enough notice, they may not be able to supply information in time. Late requests can also divert officers from work of equal or greater importance or urgency. Giving timely attention to agenda papers can mitigate this risk.

## **8. Officers' reports and advice**

8.1 The Director/Senior Officer in whose name a report to the Council (or any part of its formal decision-making structure) is submitted will always be fully responsible for the contents of it. It is essential that any proposals from members in reports to committees are clearly identified as such.

8.2 A draft or final report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any dispute between a member and the officer responsible for the report which cannot be

resolved shall be referred to responsible Director or to the Chief Executive for resolution.

8.3 On occasions, officers will need to express a professional view on a matter which may not support the view of members and/or senior officers. They must be allowed to do so without interference from, or victimisation by, members or officers.

8.4 At some committee meetings, a resolution may be passed which authorises named officers to take action between meetings in consultation with a member. It must be recognised that it is the officer, rather than a member, who takes the action and it is the officer who is accountable for it.

## **9. Officer advice to members and party groups**

9.1 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.

9.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. This means that, on occasions, information requested by one group will in fact be provided to all.

9.3 The support provided by officers can take many forms, including a briefing meeting with the executive or an executive member or the Chairman/Vice-Chairman of a committee prior to a committee meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, support is available to all party groups.

9.4 Scrutiny committees have the power to require Cabinet Members and officers to appear before them and answer questions. As a matter of convention, the Council's scrutiny committees will only require the attendance of the Chief Executive, Directors and Assistant Directors. However, to facilitate proper conduct of business, these senior officers may arrange, as necessary, for other officers to attend meetings to assist.

9.5 The Chief Executive, Directors and Assistant Directors may, in exceptional circumstances, be invited to attend political group meetings to explain or to advise on policies and/or issues provided that this facility is available to all political groups represented on the Council. Officer attendance at group meetings will

usually be at Assistant Director, Director or Chief Executive level. More junior officers should not generally be asked to attend group meetings and, if they are, they should first obtain permission of a Director or the Chief Executive.

9.6 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business and should not be present when matters of party business are to be discussed.

9.7 Special care needs to be exercised if officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and confidential information should not be disclosed.

9.8 Officers must respect the confidentiality of any party group discussions at which they are present.

9.9 Party group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at group meetings are not Council decisions and should not be interpreted or acted upon as such.

9.10 Where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the executive, executive member or relevant committee when the matter in question is considered.

## **10. Constructive criticism & redress**

10.1 It is important that there should be mutual courtesy between Members and officers. It is important that there are reasonable standards of courtesy and no member or officer should seek to take unfair advantage of their position.

10.2 Members have the right to criticise reports or the actions taken by officers but they should:

- always avoid personal attacks on officers;
- ensure that criticism is constructive and well-founded;
- take up an individual concern with the officer privately, where possible
- avoid criticising officers in the media or social media.

10.3 Members should not raise matters relating to the conduct or capability of an officer at Cabinet and committee meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An officer has no means of responding to such criticisms in public.

- 10.4 If a member considers that he or she has not been treated with proper respect or courtesy, and fails to resolve it through direct discussion with the officer, he should raise the matter with the appropriate Director or Assistant Director. The Director or Assistant Director will look into the matter and report back to the member. If the member continues to feel concern, they should then report it to the Chief Executive who will look into the matter afresh. A complaint about a Director or an Assistant Director should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules and any statutory provisions which may apply.
- 10.5 If an officer considers that he or she has not been treated with proper respect or courtesy, and a direct discussion is impractical or fails to resolve the matter, he or she should raise the matter with their line manager or Director without delay. In such circumstances, the Director will take such action as is appropriate either by approaching the individual and/or Party Group Leader. The Director will inform the Chief Executive if the Party Group Leader becomes involved, or in any other case where it is appropriate. Feedback should be given to the officer on the outcome.
- 10.6 The Council operates a confidential whistle-blowing policy. The Council is committed to the highest possible standards of operation, integrity, openness and accountability. It is expected that where an officer or member is concerned about potential unlawful conduct of an officer or member, they voice those concerns so that they can be dealt with effectively.

## **11. Officers' advice on declarations of interest**

- 11.1 The Council's Monitoring Officer will on request provide advice and information to Members on declarations of interest of a personal nature and whether or not such an interest might amount to a disclosable pecuniary interest or a prejudicial interest. However, Members will know the nature and extent of any interest they may have. It is the Member's responsibility, therefore, to decide whether any interest should be declared.

## **12. Officer decisions taken under delegated powers**

- 12.1 When making a decision under powers delegated to an officer, it must be recognised that it is the officer, and not any member, who takes the action and it is the officer who is accountable for it.

## **13. Media Liaison**



- 13.1 Communications with the media can be an important part of a member's workload, such as responding to queries. In any media contact, members and officers should always have regard to the reputation of the Council. Generally, members provide comments and views and officers provide factual information. This factual information may well include explaining the Council's policy on a particular issue. If any member is unsure about the facts of any issue he should contact the Communications Team or appropriate officer, or ask the media representative to do so. Members should avoid being seen to anticipate decisions and should not criticise officers in the media or via social media networks which may be accessible to the public.
- 13.2 If a member contacts or is contacted by the media he should indicate in what capacity he is speaking e.g. in a personal capacity, as a member of the executive, as a ward member, as Chairman of a committee, on behalf of the Council or on behalf of his political group. Members should avoid giving the impression they are speaking on behalf of the Council when expressing a personal view. If a member is contacted by the media, it may be useful to inform the Communications Team of the query or discussion; the Communications Team may offer guidance on the nature of the response where it is appropriate to do so.
- 13.3 It is the role of the Communications Team to publicise decisions and services, and to enhance and protect the reputation and profile of the Council. In this regard members should refer to the Council's Media Relations Protocol. The Media Relations Protocol provides guidance on the work undertaken by the Communications Team, and sets out the responsibilities of officers and members acting as media spokespeople in written and verbal communications. It also references the legal obligations of the Council in publishing material, and the Government's Code of Recommended Practice on Local Authority Publicity which covers the rules around content and style of publicity, distribution, advertising, promotion of individual councillors and restrictions during the election period.

#### **14. Unresolved issues and amendments to this Protocol**

- 14.1 If there are any issues of concern which are not dealt with by this Protocol, then the relevant member or officer may discuss the matter with the Chief Executive with a view to advice being provided.
- 14.2 Should any Member or officer wish to suggest an amendment to this protocol, he/she is asked to contact either the Chief Executive or the Monitoring Officer.
- 14.3 Any amendments require approval of Council on the recommendation of the Constitution Working Group. The Standards Committee and any other relevant body may be consulted on issues raised by the Protocol and on proposed amendments when appropriate.



**Committee:** Constitution Working Group

**Agenda Item**

**Date:** Wednesday 22<sup>nd</sup> March

**4**

**Title:** Appointment of Substitutes on Committees

**Author:** Simon Pugh

Item for decision:  
yes

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## Summary

1. This report considers the appointment of substitute members on Council committees and suggests a scheme to allow for this, if members want to take it forward.

## Recommendations

2. That members indicate whether they support the appointment of substitute members.
3. That members either endorse the approach set out in paragraph 11 for recommendation to Council or make alternative proposals.

## Financial Implications

4. Consideration would need to be given to whether substitute members on Planning Committee should receive a special responsibility allowance. The allowances scheme includes a special responsibility allowance of £470 for planning committee members. (2017/18 scheme.)

## Background Papers

5. There are no background papers to this report.

## Impact

6.

Communication/Consultation	None.
Community Safety	None.
Equalities	This might make it easier for councillors with caring or other commitments to take on committee membership knowing that they could call on a substitute if prevented from attending a meeting.
Health and Safety	None.
Human Rights/Legal	None, provided that substitutes are

Implications	properly appointed..
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

7. This report sets out how it might be possible to appoint substitute members who can act when principal members of committees are not available. Many councils operate substitute schemes.
8. Substitute members can be called on to act in the place of full members of a committee. They therefore need to be appointed to their role in the same way as full members. In the case of UDC, this would mean that substitute members should be appointed by the full Council.
9. There are various forms a scheme for substitute members might take:
  1. One substitute per member. This benefits from clarity but is cumbersome, involving the appointment of a large number of substitutes. It also means it is less likely that all substitutes will be up to speed with the issues and would add substantially to the member training needs for Licensing and Planning. It also makes the membership of the committee less readily identifiable to the public and result in a lack of continuity in decision-making.
  2. A number of substitutes per group on committees. This mitigates the issues which are identified above. However, the greater the number of substitutes, the more a scheme will have some of the disadvantages identified above, albeit in an attenuated form.
  3. One substitute per group per committee. This encourages substitution as a last resort, preserves the identity of the committee and ownership of its decisions, and permits the substitute more easily to be involved in briefings, training etc. However, it does mean that only one substitute is available, when more than one may be needed.
10. The following scheme is proposed with a view to gaining the best balance of advantage between the possible approaches:
  - The Council will appoint up to two substitutes per committee per group, on nomination in the usual way;

- Substitute members will receive agendas, be invited to briefings and otherwise be treated as principal members.
- Substitute members on Licensing and Planning Committees will be subject to the same training requirements as principal members.
- If a principal member is unable to attend a meeting and wishes to nominate a substitute, they must:
  - Make arrangements with the substitute to attend; and
  - Notify a Democratic Services Officer before the start of the meeting that they are to be substituted.
- If a substitute member attends a meeting in this capacity, they will take the place of the principal member for the duration of the meeting.

11. Subject to the views of the Working Group, recommendations could be made to Council on 4<sup>th</sup> April with a view to the appointment of substitute members at the Annual Meeting.

### Risk Analysis

12.

Risk	Likelihood	Impact	Mitigating actions
Meetings are not quorate if members are unable to attend and the Council has not appointed substitutes.	2.	1	Meetings may have to be rearranged.
That substitutes, if appointed, will not have the knowledge or training to make proper decisions.	2.	2.	Ensure that substitute members receive agendas and are invited to briefings. Require substitute members to meet the same training requirements as principal members.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**Committee: Constitution Working Group**

**Agenda Item**

**Date: 22 March 2017**

**5**

**Title: Proposal for changes to Audit and Performance Committee**

**Author: Simon Pugh**

Item for decision:  
yes

## **Summary**

1. This report sets out a proposal for changes to the status and remit of the Performance and Audit Committee. Whilst responsibility is assigned to Performance and Audit for audit matters, this is not really a scrutiny function. There is also no direct responsibility at committee level for corporate governance. The proposal is (a) for Performance and Audit Committee to take on responsibility for governance (with a working title of "Governance, Audit and Performance Committee"); (b) for the Committee to become an ordinary committee of the Council, rather than a scrutiny committee; and (c) for the Committee to take on the work of the Constitution Working Group and the Electoral Steering Group, with these two groups being wound up.

## **Recommendations**

2. That members consider the proposal and, if they agree, recommend its adoption to full Council.
3. If the proposal is recommended, to include a request for the Monitoring Officer to make necessary consequential drafting changes to the Constitution.

## **Financial Implications**

4. None,

## **Background Papers**

5. There are no background papers.

## **Impact**

- 6.

Communication/Consultation	This report will be sent to members of the Performance and Audit Committee and to members of the Scrutiny Committee. Any comments received by the date of the CWG meeting will be reported. Any comments received later will be reported to Council if the proposal is recommended for
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	adoption.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## **Situation**

### **7. The current position**

- 7.1 Responsibility for Scrutiny within the Council is shared between the Audit and Performance Committee and the Scrutiny Committee.
- 7.2 There is no governance committee as such, although there is a Constitutional Working Group that makes recommendations to the Council about changes to the Constitution.

### **8. Legal requirements for scrutiny**

- 8.1 The Council is obliged to have at least one scrutiny committee. The scrutiny committee (or scrutiny committees between them) must have power:
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
  - (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
  - (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
  - (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
  - (e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area .



The Council's Scrutiny Committee discharges these functions and meets the Council's legal obligation to make provision for Scrutiny.

- 8.2 With limited exceptions, scrutiny committees may not take on a role that goes beyond these matters. Their role is that of scrutiny and not one of making decisions on behalf of the Council.

## **9. Performance and Audit Committee**

- 9.1 The terms of reference of the Performance and Audit Committee are, in summary:

- To monitor the performance of the Council and progress against improvement plans;
- To oversee the Council's internal audit and risk functions;
- To receive and approve external audit reports;
- To scrutinise and approve the annual statement of accounts;
- To make reports and recommendations to the executive, committees and the Council as a whole on its performance management and corporate governance as appropriate.

- 9.2 Whilst the first and fifth of these could be treated as scrutiny functions, they can also be carried out by an ordinary committee of the Council. However, the approval of external audit reports and the approval of the annual statement of accounts are not. They should be discharged either by full Council or by an ordinary committee of the Council acting under delegated powers.

- 9.3 The committee's role in making recommendations on corporate governance overlaps with that of the Constitution Working Group.

## **10. The Constitution Working Group**

- 10.1 The Constitution Working Group has two roles:

- To monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect; and
- To make recommendations to the Council concerning changes to the Constitution. The Constitution provides that changes to the constitution may only be made by the Full Council after consideration of the proposal by the Constitution Working Group.

- 10.2 These are both useful roles in terms of governance. However, as it operates as a working group, it does not operate under the full transparency rules that apply to a committee. Given the significant governance role of CWG, there is an argument that it should conduct its business as a committee, rather than as a working group.

10.3 As mentioned in para. 8.3, the role of the Constitution Working Group overlaps with that of the Performance and Audit Committee. Officers suggest that a reconstituted Governance, Audit and Performance Committee could take on the full role of the Constitution Working Group, which could be disbanded.

## 11. Electoral Working Group

11.1 The Electoral Working Group meets occasionally to advise the Council on matters relating to elections, electoral registration, boundary and polling station reviews and related matters. Electoral matters are an aspect of governance and the proposal is to bring them within the expanded remit of the Committee and to wind up the working group.

## 12. The Council

12.1 In the absence of a governance committee, full Council is directly responsible for a significant number of governance matters. These are set out in full in the appendix to this report. Whilst many of these functions may rest appropriately with the full Council, it will be difficult for full Council to give their discharge the sort of detailed consideration that is possible in committee.

12.2 Further work would be needed to prepare a scheme of delegation, indicating clearly the matters reserved to Council and those delegated to the Committee.

## Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
That the terms of reference of an expanded Governance, Audit and Performance Committee are insufficiently clear.	2	3	Approval by the Council of detailed terms of reference and a scheme of delegation at a future meeting.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## **Appendix**

### **Functions of Full Council**

- 1 Duty to appoint an electoral registration officer
- 2 Power to assign officers in relation to the requisitions of the registration officer
- 3 Duty to appoint a Returning Officer for local government elections
- 4 Duty to provide assistance at European Parliamentary Elections
- 5 Power to pay expenses properly incurred by electoral registration officers
- 6 Power to make temporary appointments to parish councils
- 7 Power to submit proposals to the Secretary of State for a pilot scheme for local elections
- 8 Duty to consult on a change of scheme for elections
- 9 Power to alter the years of ordinary elections of parish councillors
- 10 Functions relating to the change of name of an electoral area
- 11 Power to change the name of the district
- 12 Power to confer the title of Honorary Alderman or to grant the freedom of the district
- 13 Power to petition for a charter to confer borough status
- 14 Power to make, amend, revoke, re-enact or enforce byelaws
- 15 Power to promote or oppose local or personal bills
- 16 Functions relating to local government pensions etc
- 17 Power to make standing orders including standing orders as to contracts
- 18 Power to appoint staff and to determine the terms and conditions upon which they hold office
- 19 Duty make arrangements for the proper administration of financial affairs etc under s.151 Local Government Act 1972
- 20 Power to appoint "proper officers"
- 21 Duties with regard to the appointment of a Head of Paid Service and Monitoring Office
- 22 Power to adopt a scheme permitting co-opted members of overview and scrutiny committees to vote under paragraphs 12 and 14 schedule 1 Local Government Act 2000
- 23 Power to make payments or provide benefits in cases of maladministration
- 24 Duty to adopt a code of conduct for members under the Localism Act 2011
- 25 Power to dissolve small parish councils

- 26 Power to make orders for grouping parishes, dissolving groups and separating parishes from groups
- 27 The division of the constituency into polling districts
- 28 Power to divide electoral divisions into polling districts at local government elections
- 29 Powers in respect of holding elections
- 30 Power to fill vacancies on parish councils in the event of insufficient nominations
- 31 Declaration of vacancy in office in certain cases
- 32 Giving notice of casual vacancies in office
- 33 Duties relating to publicity under the Local Government and Public Involvement in Health Act 2007
- 34 Duties relating to notice to the electoral commission
- 35 Power to change the name of a parish
- 36 All powers and duties exercisable in connection with community governance reviews and petitions