

**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