



<b>Meeting</b>	Council - Extraordinary Meeting
<b>Date and Time</b>	Tuesday, 19th March, 2019 at 7.00 pm.
<b>Venue</b>	King Alfred Conference Chamber, Guildhall, Winchester

## **S U P P L E M E N T A R Y   A G E N D A**

The following item was not notified for inclusion on the agenda within the statutory deadline. Therefore, the Chairman will need to decide whether or not to accept this item onto the agenda as a matter requiring urgent consideration.

Agenda Item.

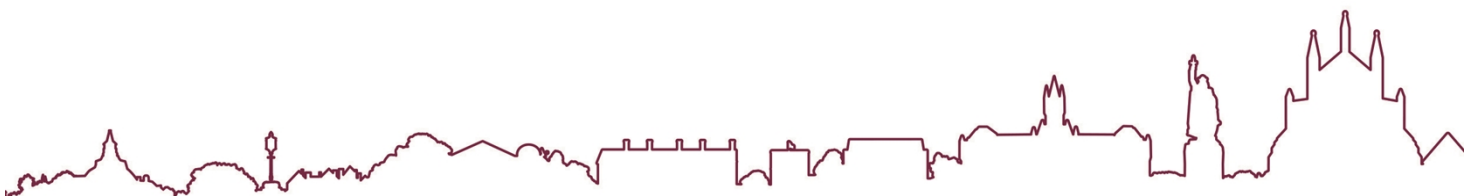
4. The Council's New Constitution – Appendix 1 – Response to Members' Consultation (Pages 3 - 6)

(CL144)

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13 March 2019

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CL144 Appendix 1 - This schedule is a summary of the recommendations from the following Member meetings:						Officer Comments
	Informal Standards - 05/02/2019	Joint Overview and Scrutiny & Audit - 19/02/19	Constitution Working Group - 25/02/19	Adjourned Joint Meeting - 27/02/19	Constitution Working Group - 05/03/19	
Recommendation 1.	The Members' Code of Conduct (Part 5) Appendix A - Description of Categories of Non-Pecuniary Interests was agreed as drafted	n/a	n/a	n/a	Recommendation 1 was agreed and the draft was to be submitted in the Constitution 'as is'.	The draft Constitution complies with the instructions of the Working Group.
Recommendation 2.	n/a	n/a	n/a	Members expressed concern that a target date of 3 months for determining complaints under the Members Code of Conduct was unrealistic and wanted this matter reviewed.	The group considered this question and on the advice of the Monitoring Officer, changed the provision to 6 months.	The Members Complaints Procedure at Part 5 under paragraph 3.7 was amended to say: the Council will endeavour to deal with a complaint within six months.
Recommendation 3.	The Council considered whether the amalgamation of the Personnel and Standards functions under the umbrella of a joint Audit and Governance Committee was sufficient to deliver adequate Member involvement in terms of skills, time and efficient outcomes.	n/a	n/a	n/a	This was considered first on 25/02 and second 05/03. The Group considered that within the context of the report of the Committee of Standards in Public Life and the High Court judgement in the Devon County Council Standards case (yet to be published) there would clearly be a need to review the Constitution's provisions relating to Members' Standards matters. As such, this consideration could include a look at the issues raised by the Informal Standards meeting.	Officers will revisit the issue raised by the Informal Standards meeting as part of the overall consideration of the matters discussed at the Working Group.
Recommendation 4.	The Members welcomed the fact that there was no extension (as ventilated in the Committee of Standards in Public Life report) to require supplementary declarations of interest in relation to spouses and partners beyond the statutory requirements.	n/a	n/a	n/a	Recommendation 4 was accepted.	The draft Constitution complies with the recommendations of the Working Group.
Recommendation 5.	Members noted that the matter of Standards in Local Government as encapsulated in the Constitution text would need to be revisited when and if the Committee of Standards in Public Life report led to legislative change. In addition when the High Court judgement was published in the judicial review case in the Standards determination made by Devon County Council then Winchester City Council would need to review its Standards investigation and determination procedures. They therefore anticipated a further report on these matters when the position became clearer.	n/a	n/a	n/a	Recommendation 4 was accepted. The Working Group asked that the report to Full Council flagged up this issue.	A report will be submitted to the Audit and Governance Committee and onto Full Council when the judgement in the Devon County Council Standards case is published. This report will contain a detailed review of the procedures for Standards investigation and the affects of the judgement of the High Court and any amendments to the procedure required or desirable.

Recommendation 6.	The Members queried the role of the independent persons in the Standards Committee and Sub-Committees and whether that role would change and how.	n/a	n/a	n/a	This matter was briefly ventilated at the Working Group and officers reported that the role of the Important Persons needed to be extended so that they covered also disciplinary matters relating to the disciplining of specified officers. This provision is set out in Article 9 relating to Human Resources function.	This issue is elaborated in the text of the Officer Employment Procedure Rules in Part 4 of the Constitution.
Recommendation 7.	n/a	Has the Council learned from previous mistakes and does the new constitution reflect the Clare Lloyd-Jones report recommendations with regard to transparency?	n/a	n/a	n/a	Agreed responses to the recommendations of the Claer Lloyd-Jones Report were approved by the Audit (Governance) Sub Committee at its meeting held on 24 November 2016 (Report AUD179 (Gov) refers).
Recommendation 8.	n/a	As the master document is electronic should it contain hyperlinks to e.g. the forward plan?	n/a	n/a	This was not considered.	The new Constitution will have hyperlinks on the webpage.
Recommendation 9.	n/a	Given size of committee and workload of audit and governance, should standards remain a separate committee rather than be a sub of audit and governance?	n/a	n/a	The Working Group did not require the amendment of the proposed structure under which Standards would operate as a sub-committee of Audit and Governance. The group noted and accepted Recommendation 3 and the officer report to follow.	See Recommendation 3.
Recommendation 10.	n/a	Working days or calendar days need specifying throughout document	n/a	n/a	This was considered in detail, first on 25/02 and second 05/03 and the group noted that these the statutory definitions in regulations varied. The MO reported that the definition of 'days' in the Constitution had been aligned with the text of the various statutory regulations.	The text of the Constitution has been amended to clarify the definition of 'days' in line with each definition in regulations underpinning the Local Government Acts.
Recommendation 11.	n/a	Can we make provision for proxy votes in full Council meetings	n/a	n/a	The MO outlined the provisions of the Local Government Act 1972 Schedule 12, Part 5: 39(1) Subject to the provisions of any enactment (including any enactment in this Act) all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority. (2) Subject to those provisions in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.	The Working Group agreed no proxy provisions.
Recommendation 12.	n/a	Should Code of Conduct training be compulsory before meeting attendance.	n/a	n/a	This was considered first on 25/02 and second 05/03. The MO reported that this is not a mandatory requirement in the new Constitution. Training is to be provided as soon as possible post elections and Members are to attend annually.	n/a

Recommendation 13.	n/a	Where does the existing portfolio holder decision notice scheme currently sit?	n/a	n/a	The MO reported that the Constitution was being amended to comply with the updated Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 as amended for the recording and publication of key decisions and significant operational decisions which may be notified publicly as part of a Portfolio Holder Decision Notice or such other statutory notifications. The group noted these changes and the fact the Mod Gov would tailor the documentation to comply with the statutory requirements.	Officers are implementing under Mod Gov the amended statutory requirements to notify key decisions and significant operational decisions as set out in the amended Article 15 - Decision Making.
Recommendation 14.	n/a	The committee commented on drafting issues throughout the Constitution draft.	n/a	n/a	The group required that the final draft rectified typographical and formatting problems with the draft.	The draft Constitution has been fully reviewed in its final form and these issues have been rectified.
Recommendation 15.	n/a	Clarification required on updating the constitution, e.g. by a simple majority of council unless matters can be agreed by the Leader under strong leader model, minor updates as required by MO.	n/a	This issue was raised, on 27/02/19, and referred to the Working Group.	The MO reported that amendments to the Constitution by Full Council were on the simple basis of a majority vote of Councillors present as required by Schedule 12, Local Government Act 1972 or under delegated powers set out in the existing Constitution and reiterated in the new draft at Article 15 under the delegated powers of the MO and Chief Executive. The group accepted this.	Accordingly, minor amendments will fall to be dealt with under Article 15 and implemented under the delegated power of the MO and the Chief Executive. More significant matters will be subject to a report to Full Council and implemented on a majority vote of Councillors present in compliance with the legislation.
Recommendation 16.	n/a	Clarification needed on "the council can establish ad-hoc meetings" who is the Council in this context.	n/a	n/a	The MO reported that the provision is set out for the appointment of task and finish groups in part 4-3, Overview and Scrutiny Procedure Rules: Scrutiny Committees may appoint task and finish groups which shall be given a brief to consider a specified subject area and report back to Committee on a regular basis as determined by the Committee. At the request of the group, the draft of the Constitution was amended and clarified at Part 1- Summary and Explanations - Overview and Scrutiny.	The draft Constitution was amended at Part 1- Summary and Explanations - Overview and Scrutiny to comply with the Working Group's instructions.
Recommendation 17.	n/a	The Members requested a redefinition of citizen's rights in relation to citizen's discretion to contact the ward councillor or other councillors.	n/a	n/a	The group considered the citizen's rights as set out in Part 1- Summary and Explanation first on 25/02 and second 05/03. They suggested the following amendment: Contact their ward or other councillor or cabinet member about any matter of concern but it is recommended that they contact their local Member in the first instance;	The draft has been amended in line with the instructions of the Working Group.
Recommendation 18.	n/a	The Members sought further clarification on definitions within the Constitution draft as follows: citizens/Full Council/The Cabinet/Proportionality rules/Joint arrangements	n/a	n/a	The group considered the adequacy of the definitions, first on 25/02 and second 05/03 and recommended that: a definition of citizen was included in interpretation section/they noted that the definition of Full Council and Cabinet are within Part 2. The MO gave an explanation of the Proportionality rules and the group requested that the application of Proportionality rules was made more explicit in the Constitution.	The officers set out that if a joint committee is exercising statutory non-executive functions then the members from WCC appointed to the joint committee should comply with proportionality rule for committees unless Full Council determines unanimously otherwise. This is set out in the Local Government and Housing Act 1989.

Recommendation 19.	n/a	The Members requested clarification as to the impact of the draft Constitution on town forum decision making and the ability of forum members to participate in decisions elsewhere?	n/a	n/a	The MO outlined that there was continuing work on a review of the operation of town forums which would not be complete prior to the Constitution and would follow at a later date. On this basis the group agreed that the Constitution draft including an un-amended script related to town forums would remain.	When a review of the town forum arrangements is complete a report will be submitted to Council. In the meantime, no changes have been made.
Recommendation 20.	n/a	The Members requested clarity over whether the provision to refer items to the Development Management Committee at the behest of parish councils and on the basis of Member objections would be retained in the new Constitution.	n/a	n/a	The Working Group considered this first on 25/02 and second 05/03 and resolved that the Constitution would retain the current arrangements whereby the Development Management Committee would determine applications where the parish councils and objectors had rights in the current Constitution.	Officers ensure that the draft Constitution complied with the recommendation of the Working Group and the Overview and Scrutiny committee.
Recommendation 21.	n/a	n/a	The group considered whether the requirement to declare gifts should be £50 or £25 per annum.	n/a	This was reconsidered and the group agreed that the figure should be £50 which is the current amount.	The draft was amended to include this.
Recommendation 22.	n/a	n/a	n/a	Members requested that the Member/Officer protocol in Part 5 should be amended as follows: officers should be under an obligation to inform ward members of visits to their wards on general Council matters.	The group considered this and agreed the following amendment: Officers will inform ward members of any Local Authority meeting, consultation or officer meetings relevant to their ward.	The Member/Officer protocol at Part 5, 3.1 relating to the role of officers has been expanded to include the wording from the Working Group.
Recommendation 23.	n/a	n/a	n/a	The Members considered on whether changes could be made to the draft Constitution to make it more gender neutral. This was referred to the Working Group on 05/03/19.	The group considered on whether changes could be made to the draft Constitution to make it more gender neutral. At this point and immediately prior to publication it was decided not to make any further changes.	No further changes were made.
Recommendation 24.	n/a	n/a	n/a	The Members discussed the availability of Council documents to the general public and the length of time such documents were extant. This was referred to the Working Group on 05/03/19.	The MO outlined that within the Constitution and in compliance with regulations there was a requirement for committee agendas and papers to be retained for 6 years. The Council's document retention schedule is referred to in the Access to Information Procedure Rules.	If there are any requirements to amend the retention policy, officers will prepare a report on this matter with appropriate recommendations.