

**THE OVERVIEW AND SCRUTINY COMMITTEE – JOINT MEETING WITH THE
AUDIT COMMITTEE**

19 February 2019
(adjourned, then reconvened 27 February 2019)

Attendance:

Councillors
Learney (Chairman)

Stallard
Cunningham
Evans
Gemmell

McLean
Thompson
Tod
Lumby

Deputy Members:

Councillor Berry and Hiscock

Others in attendance who did not address the meeting:

Councillor Godfrey (Portfolio Holder for Professional Services)

Apologies for Absence:

Councillors Clear and Weston

1. **DISCLOSURES OF INTERESTS**

Although not a declaration of interest, Councillors Learney and Thompson indicated that they were both members of the Constitution Working Group. Councillor Tod had also attended one meeting.

2. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that both Committees should raise any detailed points of principle during the meeting. Any matters related to spelling, grammar and formatting should be raised outside of the meeting with the Monitoring Officer.

The Chairman referred to the agreed procedure that the meeting would follow. Accordingly the meeting adjourned to allow for there to be a joint, informal discussion and debate with the Audit Committee. This was to take place in the following sequence:

1. Officer presentation on new Constitution
2. Question and Answers (from members of both Committees)
3. Public Participation (for public and Members not on either Committee).

There would then be an informal debate.

The minutes of the informal discussion and debate are set out in an **annex** to these minutes

Accordingly, following the formal opening and adjournment of the Audit Committee, the Committee formally opened its meeting at 6.45pm and adjourned at 6.52pm.

3. **CONSTITUTION REVIEW**

Annex

THE OVERVIEW AND SCRUTINY COMMITTEE AND AUDIT COMMITTEE

INFORMAL DISCUSSION AND DEBATE

19 February 2019

(adjourned, then reconvened 27 February 2019)

1. Councillor Cutler (Chairman of the Audit Committee) announced that he would chair the informal discussion and debate and Councillor Learney (Chairman of The Overview and Scrutiny Committee) would be vice chairman.

Councillor Horrill was also present as Leader and to respond to discussion.

The Head of Legal Services (Interim) introduced the report and highlighted some of the significant changes when compared to the existing constitution. These included:

- Changes in Article 13, including to decision making structures and definitions (i.e. operational and significant decisions).
- The scheme of delegation to officers had been 'modernised' and was in line with other Councils.
- Changes to Financial and Contract Procedure Rules so in line with legislation and to help facilitate speedier decision making.
- Amendments to Regulatory Committees, specifically the Development Management Committee (additional changes were to be made with regard to parish council referrals as had been originally proposed).
- A new Audit and Governance Committee proposed, which would now additionally deal with Standards and Personnel matters.
- Amendments to Code of Conduct, and also in light of new guidance and case law
- Amendments to Access to information Rules

- Proposed simplification of the petition rules
- Changes to Council Procedure Rules

Responding to discussion, the Chief Executive suggested that only significant points of principle should be taken forward to full Council on 19 March. The Working Party would consider points raised at this meeting.

2. In line with the procedure for the joint meeting, Cllr Horrill and Mr Patrick Davies addressed the meeting.

In summary, Councillor Horrill raised the following points:

- The drafting of a new Constitution was an outcome of the Claer Lloyd Jones Report and Peer Review and the recommendations of each had been reviewed and taken into account by the Working Group. A wholesale review of the constitution had now taken place
- The work to deliver a new Constitution was currently behind schedule and progress towards this had been shown as part of an Audit Action.
- Councillor Horrill referred to the draft of the new constitution which had been issued to all Members in January 2019. Members' comments on this had then been taken to the Working Party. The Audit and The Overview and Scrutiny Committee were now asked to consider whether there were any further areas of potential concern. Only significant points that cannot be resolved would then be taken forward to Council.

In summary, Mr Davies raised the following points:

- The first time that he was aware that a review of the Constitution was taking place was notification of the Extraordinary Council meeting.
- There was seemingly a reliance on private meetings to undertake Council business. The Council had not taken on board previous criticism of this and that the council would not achieve the trust of the public by operating in this manner.

3. The Joint meeting resumed discussion and in summary, the following initial points were raised and responses given:

- The draft Constitution complied with latest legislation, best practice and as part of the review work, comparisons had been made with other Council's Constitutions.
- It would have been extremely hard to produce a 'readable' document that showed comparisons between old and new versions of the constitution.
- In response to the concerns raised by Mr Davies, the Chief Executive stated that an informal group comprising elected Members (together with officers) was an appropriate way to bring forward to a public meeting for decision a detailed piece of work,

or to agree new policy. Members now had an opportunity to make comments prior to this.

Members noted that comments from this joint meeting would be taken forward to the Member/Officer Working Group. Any typographical and other drafting errors (including formatting) will be dealt with at a later date. Officers and the Council's consultant would endeavour to deal with any specific matters requiring clarification at today's meeting.

4. **Part 1 Explanation**

- Naming existing cabinet committees was unnecessary duplication and it was suggested that, instead, it says 'there are also Cabinet Committees'.
- Clarification needed on "the council can establish ad-hoc meetings" who is the Council in this context
- Citizens can contact *any* City Councillor (convention is that they are then passed on to the relevant ward councillor)
- Need to add definition of the Cabinet and Cabinet Committee as well as for IPG/Advisory Groups etc
- Need to add definition of Citizen. I was noted that the Working Group had discussed this point and had previously undertaken to do this.
- A query was raised about use of "every member" under definition of Council. For example, all members may be summoned but not all may be in attendance.

Part 2 - Articles

Article 4 – The Full Council

- 4.04 (f) - Consider adding "and committees" as only currently refers to determining the political balance of the Council.

Article 5 – Chairing the Council

- 5.01 (f) - Clarify if includes weekends, bank holidays etc as referenced

Article 7 – Overview and Scrutiny Committees

- For the Business and Housing Policy Committee, a drafting error was to be corrected: reference was needed to a third Council Strategy priority.

Article 9 – Audit and Governance Committee

- See above reference with regards to Standards

Article 10 – Area Committees and Forums

- It was queried with this article impacts on the existing Town Forum decision making and the ability of Forum members to participate in decisions elsewhere?

Article 11 – Joint Arrangements

- Clarification was required as to whether proportionality applied to joint arrangements and the Monitoring Officer undertook to do this.

Article 12 – Officers

- In response to a query, the Chief Executive advised that much of the phrasing and definitions within this section were standard and helped to provided clarity.

Article 14 – Finance, Contracts and Legal Matters

- It was queried whether at 14.02 (Contracts) this should this be high court and above? In response, the Monitoring Officer explained that this establishes the principle of who initiates the proceedings – elsewhere within the Constitution, the scheme of delegation details levels of expenditure allowed to achieve this.

Part 3 – Responsibility of Functions

The Cabinet, Its Committees and Portfolio Holder’s Structure

- With regards to Cabinet Portfolios and Service Areas of Responsibility (paragraph 2.1) it was acknowledged that responsibilities can change annually but it was pointed out that the Leader was able to make changes as and when required. Therefore, the table at paragraph 2.1 could change and that the Monitoring Officer was able to make the necessary editing changes to facilitate.
- It was noted that references to the Joint Environmental Services Committee would be removed when the contract was terminated later in the year.

The Regulatory Committees and other Non Executive Committees

- The meeting discussed the ‘triggers’ to the Planning Committee and that it had been decided to retain the existing arrangements. It was pointed out that the unparished Town Forum area was unable to benefit from the existing parish objection triggers.

Due to the late hour, the meeting agreed to adjourn for a comfort break at 9.20pm.

The meeting reconvened at 9.35pm and following further discussion, decided to adjourn at 9.45pm and to reconvene at a later date – which was agreed to be Wednesday 27 February, 6.30pm.

The joint informal meeting of The Overview and Scrutiny Committee and Audit Committee reconvened at 6.30pm on 27 February 2019. With the exception of Councillor Lumby who had forwarded his apologies, the same Members of both Committees were present as on 19 February 2019. Councillor Horrill was also present as Leader and to respond to questions.

The joint meeting resumed discussion of the Council's Constitution from Part 4, (Council Procedure Rules) to Part 8 (Organisational Structure).

In summary, the following points were raised and responses given:

Council Procedure Rules

- The numbering and cross-referencing required checking following amendments. The Head of Legal Services (Interim) confirmed that the whole constitution document would be checked for any numbering/references etc inconsistencies prior to consideration at Council.
- It was agreed that Council questions should be submitted five working days in advance of the Council meeting. This early submission would enable officers to prepare and circulate responses within good time of the meeting start. It was agreed that deadline for circulation of questions and responses should be midday on the day of Council meeting. This deadline would not apply to questions under "Urgent Business" (Paragraph 15 of Council Procedure Rules refers).
- A reminder of the Council question deadlines should be included within Members' outlook calendars.

Overview & Scrutiny Procedure Rules

- In response to questions, Councillor Horrill confirmed that the question of chairing of the two proposed new Policy Committees had been carefully considered and decided that this was an appropriate role for an Member from the majority party as these related to policy formation. The principal Scrutiny Committee would be chaired by a Member from an opposition party. There was general agreement to this approach.

- It was noted that the informal working party had agreed that Paragraph 11 be amended to clarify that it would be the responsibility of the Member to prepare and submit a minority report.

Access to Information Procedure Rules

- Members requested clarity of the retention policy for different documents, particularly committee reports and minutes.

Contract Procedure Rules

- One Member expressed some concern about the limits set in the table at paragraph 13.1 and the implication that an officer could agree a verbal contract of up to £10,000. Some Members queried whether the term contract could be explained. The Head of Legal Services (Interim) and the Strategic Director: Resources confirmed that the Financial Procedure Rules included requirements for proper recording of procurement. In addition, it would not be feasible to provide a definition of a contract in the Constitution.

Members' Code of Conduct

- Members noted that further clarification on the Code of Conduct was expected in a court judgement, expected shortly. In addition, the Committee on Standards in Public Life had recently published a report with recommendations to alter the statutory arrangements governing declarations of interest. Consequently, further work would be required in this area and a further report brought to a future Council meeting.
- There remained a difference of opinion between Members regarding whether there should be a requirement for Members to declare non-pecuniary interests within the Members' Interest form (usually completed at the start of each Municipal Year) or just if and when such an interest arose at a meeting.

Protocol for Member/Officer Relations

- Members requested that the requirement for Officers to inform Councillors of relevant meetings or events in their Ward be included in the Protocol. It was agreed that the informal working party consider how this could be achieved.
- One Member queried whether a recommendation of the Clair Lloyd-Jones review had been implemented: where Officers are negotiating with third parties there should a lead Member present at meetings. The Strategic Director: Resources advised that the review's recommendations had been fully

considered at an Informal Policy Group who reported back to the Audit Committee.

Members' Complaints Procedure

- One Member expressed concern about the length of time taken to consider complaints against Members. The Head of Legal Services (Interim) emphasised that some complaints were more complex and so the length of time was necessarily extended. However, the amended procedure attempted to address concerns and stated that the Council would endeavour to deal with a complaint within three months.
- There was some discussion around whether three months was a feasible timeframe. In addition, the Head of Legal Services emphasised that the expected changes to the Code might impact on the time required. It was agreed that the informal working party be requested to consider the concerns raised further and ascertain whether any changes were required.

Members' Allowances Scheme

- Members queried how the scheme would be amended to reflect the new Committee structures, should the revised Constitution be approved.
- One Member highlighted a correction to note the title River Hamble Harbour Management Committee (not Sub-Committee).

Organisational Structure

- One Member queried whether this was required to be in the Constitution.

General comments

- Some discussion of whether masculine/feminine pronouns should be removed throughout the Constitution and replaced with gender neutral titles.
- Members requested that the report to Council make clear what comments had been made during this meeting and whether or not amendments had been made as a result.
- The responsibility for amending the Constitution should be clearly stated and clarity provided on how Members would be informed.

At the conclusion of the informal discussion, Members agreed on the following points to take forward for further consideration by the informal working group and/or Council:

- With the exception of questions under Urgent Business, Council questions to be submitted five working days prior to the Council meeting and questions and answers to be circulated by midday on the day of the Council meeting. Provision for supplementary questions to remain as in the current constitution.
- Council to decide on requirements regarding disclosing interests prior to a meeting (in the Members' Interest form).
- Noted that an amended Code of Conduct will be submitted to a future Council meeting following further Government guidance becoming available.
- The requirement to inform Councillors of events or meetings in their Ward to be included.
- Members' Complaints Procedure to be re-examined to strengthen further if possible, without making requirements on officers unreasonably onerous.
- Further clarification to be provided on amending the Members' Allowances Scheme following agreement of the new Council structure.

The joint informal meeting ended to enable individual formal meetings of both the Audit Committee and The Overview and Scrutiny Committee to reconvene to consider the recommendations set out in the report.

4. **THE OVERVIEW AND SCRUTINY COMMITTEE AGREES ITS RECOMMENDATIONS**

RESOLVED:

That comments of The Overview and Scrutiny Committee and Audit Committee, as set out in the minutes of the informal discussion and debate of the joint meeting be further considered by the Constitution Member/Officer Working Group and/or full Council.

The reconvened meeting commenced at 6.30pm and concluded at 10.40pm.

Chairman