

Agenda Item No: 9

Report to: Council

Date of Meeting: 26th July 2017

Report Title: Amendments to the Council's Constitution

Report By: Christine Barkshire-Jones
Chief Legal Officer and Monitoring Officer

Purpose of Report

Council is asked to consider and approve the constitutional amendments

Recommendation(s)

- 1. To recommend that the amendments to the Council's Constitution be adopted by Council.**

Reasons for Recommendations

The Council's Constitution is the basis for the Council's Corporate Governance.

Introduction

1. The Council's Constitution is the basis for the Council's Corporate Governance. It needs amending on a regular basis either as a result of discussions at Working Arrangement Group and/or changes in legislative provisions or working practices.
2. The changes to the Constitution have been agreed by Working Arrangement Group at their meeting on 29th March 2017.
3. Changes have been made to Parts 2, 3, 4, 5 and 8 of the Constitution. All additions are in red text and all removed words are struck through in red text for ease of reference. Page numbers and paragraph numbers have also been corrected where text has been added or removed and reference to Aquila House has been changed to Muriel Matters House throughout.
4. Part 2 - Articles of the Constitution - addition of Articles 8 para 8.2e regarding the appointment of Chair at Regulatory Committees where the Chair or Vice Chair is not available to Chair the meeting (or part of). This may be due to absence or interests.
5. Part 3 - Responsibility for Functions - all text versions of the table of functions have been deleted as they were duplicated.
6. Part 4 - Rules of Procedure - Para 10 Petitions Scheme has been clarified to exclude planning petitions which are dealt with by the Planning Committee and petitions relating to Disciplinary proceedings. E-Petitions have also been clarified now they are facilitated by Modern.Gov and not ESCC. E-Petitions are not accepted for petitions alleging misconduct by a councillor (complaint to Standards Committee), relating to a Council officer or Service (Corporate Complaints Process / Disciplinary), matters relating to an individual e.g. a taxi driver's licence application or relating to a current planning application. Clarification has also been given as to how the Council will respond to petitions.
7. Part 4 - Para 11 Public Question Time - addition of 'questions asked within the 30 minutes will be answered'. Clarification has also been given as to the scope of questions in that the Chief Legal Officer may reject a question if it is about a matter which is the subject of legal proceedings, an appeal to a tribunal or government minister, an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure.
8. Part 4 - Para 14 Motions on Notice - The wording regarding motions to Council has also been further clarified. Following concerns over the length of Council meetings the Working Arrangements Group have suggested that the general time for members to speak on an item be reduced from 5 minutes to 3 minutes (para 16.4).
9. Part 5 Planning Protocol. The number of letters of objection required for a planning application to be determined by Planning Committee has increased from 3 to 5 different households. This will bring it in line with other Local Planning Authorities and reduce the need for small and minor applications to come to Planning Committee. Major, sensitive and contentious planning applications will always attract more than 5 objections or a petition of objection (some application can attract dozens / hundreds).

This does not affect a Councillor's right to call in the application to Planning Committee in accordance with paragraph 44 of Part 8 of the Constitution. Addition of para 53 regarding the appointment of the Chair where the Chair or Vice Chair is not available to Chair the meeting (or part of). This may be due to absence or interests. The nomination must be of a permanent member of Planning Committee and not a substitute. The procedures for public speaking now allow for members of the public to address the Planning Committee where a petition of over 10 signatories is received. This could be for or against the officer recommendation. Previously this was only where the petition was against the recommendation of the planning officer. This is in the interests of transparency and natural justice.

10. Part 8 - Standing Instructions to Authorised Officers - Part 3b para B insertion of B.13 Housing and Planning Act 2016. Part 2 – Rogue Landlords and Property Agents in England. Part 5 – Housing, estate agents and recharges: other changes. Clarification is also provided in relation to planning matters that do not need to be referred to Planning Committee. All applications made by the Council, a serving Member or officer of the Council where the officer is employed in a politically restricted post and/or within the Council's planning service must be determined by Planning Committee in the interests of transparency. This is regardless of the number of objections to these applications. Clarification is also provided as to applications determined by Authorised Officers under delegated authority for example on time restricted prior approval applications.

11. There has been some general tidying up for consistency and some additional legislative provisions added required by law.

Wards Affected

None

Area(s) Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes

Background Information

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Report Template v22.0

Appendix 1 - Amendments to Part 2
Appendix 2 - Amendments to Part 3
Appendix 3 - Amendments to Part 4
Appendix 4 - Amendments to Part 5
Appendix 5 - Amendments to Part 8

Officer to Contact

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