

MINUTES

CONSTITUTION COMMITTEE
MONDAY, 9 FEBRUARY 2015



COMMITTEE MEMBERS PRESENT

Councillor George Chivers
Councillor Vic Kerr
Councillor Alan Parkin (Vice-Chairman)
Councillor Rob Shorrocks
Councillor Raymond Wootten (Chairman)

OFFICERS

Executive Manager Corporate (Lucy Youles)
Business Manager Environmental Health (Anne-Marie Coulthard)
Community Engagement and Policy Development Officer (Carol Drury)
Democratic Officer (Lucy Bonshor)

OTHER MEMBERS

Councillor Jacky Smith

57. MEMBERSHIP

The Committee were notified that Councillor Chivers was substituting for Councillor Auger.

58. DISCLOSURE OF INTERESTS

None disclosed.

59. MINUTES OF THE MEETING HELD ON 13TH OCTOBER 2014

The minutes of the meeting held on 13th October were agreed as a correct record.

A Member asked about when the deferred item would be discussed. The Executive Manager, Corporate confirmed that she had received no details about any amendments to bring the item back to the Committee. The Chairman indicated that he would take it up with the Leader and the Chairman of the Development Control Committee.

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60. AMENDMENTS TO THE CONSTITUTION

Mobile Homes Act 2013 and Enterprise and Regulatory Reform Act 2013

Decision:

The Constitution Committee recommends to Council that:

The Mobile Homes Act 2013 and the Mobile Homes Act 1983 and Enterprise and Regulatory Reform Act 2013 are added to the list of statutes contained within the Constitution and that the Executive Manager Environment and Officers delegated in writing by them are authorised to act under these statutes and Regulation Orders made thereunder.

The Business Manager Environmental Health submitted report ENV619 on behalf of the Executive Manager Environment. The report set out the provisions of the Mobile Homes Act 2013 and the Enterprise and Regulatory Reform Act 2013 which updated the provisions of the Caravans Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. The acts provided new administrative and enforcement powers in respect of “relevant protected site” which were sites that were occupied for residential purposes as a permanent home throughout the year.

The Mobile Homes Act 2013 allowed that in the event of a breach of a licence condition on a relevant protected site a compliance notice could now be served. Local authorities could recover expenses associated with the service of the notice and undertake works in default where occupiers had been convicted of failing to comply with the notice. The Mobile Homes Act 2013 also amended the Mobile Homes Act 1983 which had been extended to give the Council a role in maintaining a register of site rules.

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) England Order 2014 had been made under the Enterprise and Regulatory Reform Act 2013 and required persons who engaged in lettings agency work to be members of one of three Ombudsman redress schemes for dealing with complaints. If the Council was satisfied that a person had failed to join a redress scheme they could be required to pay a fine up to £5,000. If the notice was not paid the Council could recover the costs through a court order.

For clarity the Business Manager confirmed the Executive Manager could “act” under the legislation by serving compliance notices, cost recovery notices, carrying out works in default notices, notices and serving notices for emergency action.

The Business Manager confirmed that the regulations were made in October 2014 and that work was being undertaken to inform all agencies.

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It was proposed, seconded and agreed to add the legislation and delegation responsibilities to the Constitution.

Right to Legal Representation

Decision:

That the Constitution Committee recommends to Council the following amendments to the Arrangements for dealing with Standards Complaints under the Localism Act 2011 (the Arrangements):

- **That legal representation is permitted for Members who face an allegation of misconduct and are required to appear before the Review Board;**
- **That such representation must be provided at the cost to the Member and not at a cost to the Council.**

The Executive Manager Corporate submitted report LDS141 following the decision made at Full Council on 6th November to consider a recommendation to Council to amend the Arrangements to permit legal representation for Members appearing at a hearing before the Review Board.

Currently the arrangements were silent about representation of members about whom an allegation of misconduct had been investigated. If legal representation was permitted then the cost would be met by the Member not the Council. The Member who had submitted the motion felt that recognition needed to be contained within the Constitution that Members were able to have legal representation at these hearings.

The Executive Manager Corporate referred to the arrangement document for Standards allegations which was not contained within the Constitution it was part of the Code of Conduct for Members of which part was contained within the Constitution. If Members agreed the change the provision could be referenced within the process.

The Member referred to the other issues raised within his motion which would be discussed under the following item.

It was proposed, seconded and agreed that legal representation would be permitted for Members who faced an allegation of misconduct and were required to attend a Review Panel but that the cost would be met by the Member not the Council.

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61. CONSTITUTION REVIEW

Decision:

- 1) That the Constitution Committee recommends to Council the draft Constitution document as circulated together with the following amendments/additions:
 - i) That the Constitution Committee recommends to Council the following addition to the Constitution

Procedure for cancellation of meetings

Meetings of Committees and Policy Development Groups can only be cancelled if:

- the notice period for items to be put on the agenda has lapsed (12 clear working days before the date of the meeting); and
 - the Chairman or Vice-Chairman in his/her absence has consulted with other members of the Committee/Policy Development Group and the majority have agreed to cancel the meeting.
- ii) That 7.3 (Meetings of the Policy Development Groups) and 7.4 (substitution) also be contained within Article 6 for the Scrutiny Committee worded appropriately including reference to substitutes not being members of the Executive or members of a Policy Development Group

Members had before them a copy of the draft Constitution following the review work that had been done to date. Articles 1, 4, 18 and 19 had been amalgamated and had already been before the Committee and agreed at Council together with the Budget and Policy Framework Rules which were contained in Article 4. The scheme of delegation and procedure rules had been amalgamated within the relevant Articles.

The Committee then went through each Article and the Executive Manager Corporate highlighted specific areas.

The summary and explanation had been changed to reflect the new number of wards and Members from May 2015.

Article 2, 2.3b would be changed to reflect the Council's decision at its meeting on 6th November also 2.3b (iv) included reference to mandatory training required by Development Control, Licensing and Governance and Audit Committees. The Members allowance scheme was also contained within this Article.

A short discussion followed on training following the May elections.

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Article 3 had changed citizens to Members of the Public and 3.1 (d) had been changed to reflect current practice.

Article 4 – A question was asked whether 4.1.1 (x) should be changed to address an anomaly within the Constitution concerning the number of meetings held. Should this only be in reference to ordinary meetings of the Council with an indicative indication of when other meetings should be held. The Executive Manager Corporate was aware of the issue which had been raised by a Member of the Committee concerning the cancellation of meetings and that the issue was on the Scrutiny Committee agenda. If there were no specific items for a meeting then it couldn't be appropriate to hold a meeting when there was nothing to discuss. The Member who had raised the issue referred to the lack of powers contained within the Constitution that allowed Chairman to cancel meetings. The Executive Manager Corporate referred to the inclusion of wording such as *“and an indicative programme of meetings for Policy Development Groups and other Committees”* to 4.1.1 (x).

The Member who had raised the issue about the cancellation of meetings agreed that a calendar showing when meetings were scheduled was helpful to Members and enabled them to plan ahead however, he felt that changes needed to be made in terms of procedure for the cancellation of meetings.

He proposed the following additions to the Constitution in relation to the cancellation of meetings:

Meetings of Committees and Policy Development Groups can only be cancelled if:

- the notice period for items to be put on the agenda had lapsed: and
- the Chairman or Vice-Chairman in his/her absence has consulted with other members of the Committee/Policy Development Group and the majority have agreed to cancel the meeting.

A discussion followed about clarity on what was the correct notice period to comply with legislation (12 clear working days before the date of the meeting).

The proposal was seconded and on being put to the vote agreed.

The Executive Manager Corporate also highlighted an addition to 4.6.1 which reflected changes in legislation concerning the summons to meetings which may be sent electronically.

Article 5 - no change

11.25am Councillor Parkin left the meeting

Article 6

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Before discussing the Article a Member asked if the Chairman of the Scrutiny Committee had to be of an opposing political group. The Executive Manager said that there was no legal requirement but it was seen as good practice not to have a Member of the ruling party as the Scrutiny Chairman.

The Executive Manager then referred to 7.3 (Meetings of Policy Development Groups) and 7.4 (substitution) which were contained in Article 7 for the Policy Development Groups she said that both of these were relevant to the Scrutiny Committee and should also be contained within Article 6. Members agreed with this and it was proposed, seconded and agreed.

Article 7

The Executive Manager Corporate informed Members that the word “co-terminus” had been changed to “aligned with” and that the procedure rules had been amalgamated within the Article. Officer titles had been amended to reflect the current structure and the changes made to the Cabinet and Policy Development Liaison Group which had been agreed by Council was also included.

Article 8

8.2 (b) (iv) added in accordance with changes to legislation. 8.5.4 consultation list updated.

Article 9

Regulatory Committees split into Development Control Committee, Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee. 9.1.2 References to substitutes and training should include mandatory training.

Article 10 – no change

Article 11 – no change

Article 12 and Article 13 no change

Article 14

Scheme of delegation updated and contained within Article, less “wordy”. Legislation references will be contained within a separate appendix.

Article 15

Contained decision making and all relevant provisions, access to information rules and exempt information and local choice functions, it was suggested that although the Review Board was contained within this Article it would be better placed in Article 4.

Article 16 – no change

Financial Regulations, Contract Procedure Rules, Members Code of Conduct,

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protocol for recording meetings in the council chamber and the civic protocol would remain within the Constitution. The Members Planning Code of Good Practice needed updating, the data protection policy, sponsorship arrangements protocol and the equal opportunity in relation to planning and the delivery of services would be removed as they did not need to be part of the Constitution.

It was proposed, seconded and agreed to put forward the draft Constitution to the next Council meeting including the amendments made at the meeting.

Meeting closed at 11.47am.