

**Public Document Pack  
SOUTHEND-ON-SEA CITY COUNCIL**

**General Purposes Committee**

**Date: Wednesday, 5th October, 2022**

**Time: 6.30 pm**

**Place: Council Chamber - Civic Suite**

**Contact: Robert Harris - Principal Committee Officer**

**Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**AGENDA**

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Constitution Review - Findings from Centre for Governance and Scrutiny**  
(Pages 1 - 18)  
Report of Chief Executive attached

**Chair & Members:**

Cllr A Line (Chair), Cllr A Jones (Vice-Chair), Cllr J Courtenay, Cllr T Cox, Cllr M Dent, Cllr K Evans, Cllr D Jarvis, Cllr M Kelly and Cllr A Thompson

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# Southend-on-Sea Borough Council

Report of Chief Executive  
to  
General Purposes Committee (GPC)  
on  
5 October 2022

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Sarah Brown, Policy Manager

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## Review of the Council's Constitution

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### 1. Purpose of Report

- 1.1 To present the Centre for Governance and Scrutiny (CfGS) report, which recommends next steps the Council should take in the project to update the constitution.
- 1.2 For General Purposes Committee to agree the approach outlined below.

### 2. Recommendations

- 2.1 **The General Purposes Committee is recommended to:**
  - A. Note the CfGS report
  - B. Agree to commence redrafting Council procedure rules
  - C. To prioritise changes with the first step being new Scrutiny Procedural Rules, details of which are included in the next report
  - D. General Purposes Committee to act as a cross party focus group for ongoing work
  - E. That the next step will be for the Committee to agree a timetable and sequence for changes.

### 3. CfGS Summary

- 3.1 The CfGS have set out a number of recommendations which they consider are necessary to bring about change to the attitude and approach for transacting effective and timely business at Cabinet, scrutiny, full Council, and informally. See **Appendix 1**
- 3.2 CfGS advise that the way in which the changes are made and how they are embedded are as, if not more, important than the changes themselves. They have therefore suggested a number of ways to embed the change.
- 3.3 It is not recommended that a full rewrite of the constitution take place as this would be a disproportionate undertaking. Instead, it is suggested that there are

changes to key sections – council standing orders and scrutiny in particular – alongside improvements to the readability of other parts.

3.4 CFIGS recommend that members and officers should:

- Begin making changes– experimenting with new approaches and seeing what works, so formal changes to systems can be confirmed before the new municipal year with confidence and experience of their operation on a trial basis;
- Sequence the changes – the changes listed cannot all happen at once, with main focus, and the area that will need most time to bed in, are the changes to SO.7 and SO.39 and the adoption of the suggested “enhanced” scrutiny arrangements – these should be seen as the priority.

#### 4.0 Activity required to embed change

4.1 To ensure a sense of ownership of the changes and to ensure that constitutional change is not perceived purely as being the preserve of legal professionals, CfGS has suggested that a number of ‘development and familiarisation sessions’ between Councillors and officers take place. Effectively these act as interactive training sessions whilst exploring and agreeing the development of new processes. Sessions would cover:

Session	Purpose/objective
Decision-making processes	Who should feed into decision-making, and when. This would involve working with members to put together and refine process maps and flowcharts making it clearer where, how and by whom decisions are developed and made – it would also involve Cabinet and senior officers considering appropriate levels of officer delegation.
Management of business	To unpick current practices around minute referrals (and other matters currently covered by those standing orders where we propose changes) and consider how time at full Council could be more productively used, and how cross-party business might be carried out in a reconstituted General Purposes Committee.
A shift in focus for scrutiny	For scrutiny members to explore a shift in focus and direction for the function, resting on a more robust and consistent approach to the use of information.

4.2 In order to deliver more general changes, a small reference group, is recommended to provide direction where Councillor input is necessary. This activity could be carried out by or under the purview of the General Purposes Committee, and would include:

- The wording of a preamble to the constitution. This would set out key roles and responsibilities, and would provide the basis for ongoing training and development for councillors and officers on the key mindsets and attitudes

- necessary for the constitution to work – a framework for positive and constructive behaviours around decision-making and checks and balances;
- Key aspects of the accessibility and “look” of a new constitution – in particular, how it is presented to the public;
  - The content of a new set of decision-making principles, including new principles to determine where and when certain matters should be subject to “pre-decision” scrutiny;
  - The content and look of a set of flow charts explaining such processes clearly and succinctly;
  - The overall approach to checks and balances in the constitution – the removal of SO.7 and SO.39 alongside other changes to scrutiny, and to the operation of full Council meetings, which would mitigate any risk that members might feel arose from the removal of those standing orders;
  - The right “balance” of delegation – the level of delegation with which councillors overall feel comfortable;
  - An expanded role for the General Purposes Committee, in overseeing governance and the constitution.

## 5.0 Key decisions & Timeline

5.1 A possible outline for key decision points and their sequence is provided below:

Decision / Task	Owner	Date
Agree next steps	General Purposes Committee	5 <sup>th</sup> October
New scrutiny Rules considered at full council	Full Council	20 <sup>th</sup> October
Agree sequencing of changes	General Purposes Committee	October - February
To prioritise redrafting and agree content	Cross Party focus group	Nov - March
Approve final new Constitution	General Purposes Committee, Full Council	March / April, May AGM 2023
Training programme rolled designed and rolled out to members and officers	Workforce Development / Dem Services	June 2023 onwards

## 6. Other Options

The General Purposes Committee could reconsider their previous recommendation and decide that a review of the Constitution is not necessary, however, this would mean losing an opportunity to enable councillors, to consider ways to improve the Council’s decision making processes, as well as loss of the investment already undertaken in this work.

## 7. Corporate Implications

7.1 Contribution to the Southend 2050 Road Map

This work supports the Council’s condition for ‘simple and effective governance’, as well as to build an agile, collaborative and skilled workforce equipped to deliver Southend 2050 and the new Corporate Plan. The review complements work to improve effective working relationships between Councillors and Officers, which in

turn enables more opportunity for greater understanding of priorities, strengthened collaboration, and better outcomes towards the Southend 2050 roadmap.

**7.2 Finance & value for money implications**

There are no specific financial implications for this report. Improved decision making processes will help enhance the efficiency and effectiveness and, therefore, the value for money achieved by the Council.

**7.3 Legal Implications**

Any changes made to the Constitution will be completed in line with legislative requirements determining the governance arrangements of English local authorities.

**7.4 Equality & diversity implications**

Revisions to the Constitution will reflect the Council's approach to equality and inclusivity, including the use of gender neutral language.

**7.5 People Implications**

This aims to contribute to the effective working relations between Councillors and Officers and to help underpin the work to embed the Council's the values and behaviours. However, no further specific people implications are noted in relation to this report.

**8. Other corporate implications:** (Property; Empowerment, Co-design/production & Consultation; Risk; Community Safety; Green City/Environment/Climate Change; Data Protection; ICT; Health; Health & Safety; Commissioning/ Procurement]:- None specific.

**9. Background Papers**

There are no background papers.

**10. Appendices**

**10.1 Appendix 1: CfGS Final Report, August 2022**

Southend Council

## Constitutional changes: report

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1. Introduction
2. Review methodology
3. Executive summary
4. Suggested changes: in general
5. Suggested changes: in detail

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## 1. Introduction

This paper is the result of a review of Southend Council's constitution, carried out by the Centre for Governance and Scrutiny.

Agreeing to a review, the Council's General Purposes Committee resolved on 14 July 2021:

*That a review of the Constitution is required and that changes made need to stand the test of time. It is essential that all Councillors are given the opportunity to contribute to the review. The review should not be rushed, although the aim should be to complete the task during the current municipal year.*

*That the LGA be engaged to provide briefings and deliberation sessions with all Councillors within their group setting and separately with the non-aligned independent Councillors. The LGA will collate and feedback Councillor's contributions which will then be considered by this Committee to help it formulate recommendations to Council on the review of the Constitution.*

Earlier in 2021 an initial review of the constitution was carried out by the law firm Bevan Britten (BB). This review noted that the Constitution requires improvement, and it has been used as a foundation for the work reported in this paper.

## 2. Methodology

Evidence was gathered through:

- A review of an initial analysis carried out by Bevan Britten (BB), as noted above;

- A small number of one to one interviews with some councillors and officers;
- A detailed review of the Council Constitution and selected other Council governance material, including previous years' Annual Governance Statements, and papers from full Council and various other formal meetings. Webcasts of selected Council meetings were also observed;
- Discussion sessions with individual party groups, carried out in the late autumn and earlier winter of 2021/22;
- Two cross-party discussion sessions, carried out in January 2022.

As part of this work, CfGS:

- Summarised its plans in a note sent to members in late summer 2021;
- Circulated a more detailed note, setting out possible areas for change, in early autumn 2021;
- Circulated a discussion paper setting out findings in more detail in winter 2021/22;
- Circulated a further paper in spring 2022, leading to further member discussion, and then a final paper setting out likely approaches, based on those discussions.

### **3. Executive summary, and how we propose changes might be embedded**

Any major change to ways of working requires training and development, to help with familiarisation and to make clear how individuals will have to work differently.

A number of the structural changes set out in this report will bring about changes to the attitude and approach necessary to transact business at Cabinet, at scrutiny, in full Council, and informally. Proposed changes hinge on relationships between members, and between members and officers, and any development activity will also need to focus on these matters.

Structural changes will not deliver these shifts automatically, and members and officers will need to think about assumptions that underpin their working patterns and think about how these might need to change in order to support the council to work in a more streamlined way.

These changes will involve shifts in the way that business is transacted:

- At full Council, where changes to standing orders will fundamentally change the look of agendas and the overall operation of meetings. This should lead to more time and space at full Council for more meaningful discussion (and political debate) of issues of local importance;
- In scrutiny, which will see a significant reduction in the number of call-ins and an increase in the use of more meaningful "pre-decision" scrutiny. This should lead to scrutiny more clearly demonstrating added value through the work it carries out, and more predictability on the timing and management of decisions subject to call-in;
- A shift in assumptions about where members, and officers, will lead on decision-making, in line with shifts to the scheme of delegation. This should lead to more clarity between members, and between members and officers, about where mutual responsibilities lie, making decision-making more transparent and giving officers more confidence to take forward decisions subject to proportionate and predictable oversight from members;
- Through the introduction of cross-party co-ordination and dialogue on the management of council business. We originally considered the possibility of



establishing a separate formal committee (a new “General Purposes” committee with functions different to the Council’s existing GP Committee) but based on member feedback now feel that this would be disproportionate.

In order to take forward the changes we suggest that the council run a number of development and familiarisation sessions with councillors and officers – these will form part of the work to make changes to the constitution, will build a sense of ownership and ensure that constitutional change is not perceived purely as being the preserve of legal professionals. Sessions might include:

- On decision-making processes: who should feed into decision-making, and when. This would involve working with members to put together and refine process maps and flowcharts making it clearer where, how and by whom decisions are developed and made – it would also involve Cabinet and senior officers considering appropriate levels of officer delegation;
- On management of business: a session or sessions would unpick current practices around minute referrals (and other matters currently covered by those standing orders where we propose changes) and consider how time at full Council could be more productively used, and how cross-party business might be carried out in a reconstituted General Purposes committee;
- On a shift in focus for scrutiny: sessions for scrutiny members to explore a shift in focus and direction for the function, resting on a more robust and consistent approach to the use of information.

In order to take forward changes more generally, we recommend that a small reference group of councillors, cross-party, be formed to provide direction of some of the substantive areas of the new Constitution where member input is necessary.

In our view these will include:

- The wording of a preamble to the constitution. This would set out key roles and responsibilities, and would provide the basis for ongoing training and development for councillors and officers on the key mindsets and attitudes necessary for the constitution to work – a framework for positive and constructive behaviours around decision-making and checks and balances;
- Key aspects of the accessibility and “look” of the constitution – in particular, how it is presented to the public;
- The content of a new set of decision-making principles, including new principles to determine where and when certain matters should be subject to “pre-decision” scrutiny;
- The content and look of a set of flow charts explaining such processes clearly and succinctly;
- The \*overall\* approach to checks and balances in the constitution – taking our proposed removal of SO.7 and SO.39 alongside other changes to scrutiny, and to the operation of full Council meetings, which would mitigate any risk that members might feel arose from the removal of those standing orders;
- The right “balance” of delegation – the level of delegation with which councillors overall feel comfortable;
- A different approach to cross-party co-ordination of council business.

Members will, of course, want and need oversight on any changes made as a result of this review, not just those set out above.

### 3.1 Timescales for changes

Originally, our plan was to recommend that the Council carry out a full rewrite of the Constitution. This is a major undertaking, and is arguably not proportionate to the needs of the Council at this time. Instead, we suggest changes to key sections – around council standing orders and scrutiny in particular – alongside improvements to the readability of other parts. For the moment, we do not suggest changes to the constitution’s structure.

This should mean that it is possible for final changes to be made in full by Council AGM in May 2023. In advance of this, however, members and officers should:

- Begin making changes along the lines set out in this paper – experimenting with new approaches and seeing what works, so formal changes to systems can be confirmed in May 2023 with confidence and experience of their operation on a trial basis;
- Sequence the changes – the changes listed here cannot all happen at once. In our view the main focus, and the area that will need most time to bed in, are the changes to SO.7 and SO.39 and the adoption of our suggested “enhanced” scrutiny arrangements – these should be seen as the priority.

## **4. Suggested changes**

### 4.1 The purpose of the constitution, and the importance of culture

In producing these proposals we have discussed with councillors and officers their views on the purpose of the constitution. Agreement on this fundamental point is necessary in order for the constitution to be, where necessary, restructured and rewritten. We think that conclusions on this point will form the basis of an important preamble, or introduction, to the constitution that will help members, officers and public better understanding its purpose, organisation and structure.

Many of those to whom we spoke found it difficult to describe, in their view, what the constitution was for, beyond it being a rulebook. Being able to more clearly articulate the purpose of the constitution will help the council to reflect on the extent to which the constitution – in its individual sections and overall – reflects that purpose. It will bring more cohesion to the document itself, and to the way that people act and behave.

In this context **the purpose of the Constitution should be to provide a framework within which people can understand their roles and responsibilities, and who is accountable and responsible to whom for things like decision-making.** The preamble to the Constitution should make this purpose clear, as well as making clear the individual and collective commitments that officers and councillors need to make this purpose a reality. The Council should take steps to use such a preamble as a tool for new councillor and officer inductions, and for periodic officer and member training.

### 4.2 The structure of the constitution and steps to enhance overall accessibility

There is no national “best practice” with regards to the drafting of council constitutions. What consistency does exist is provided for by the “model” constitution produced by Government as statutory guidance in 2000 – although much of this has been superseded by more recent legislation and accepted standards around accessibility and usability have developed significantly since then.

While members have been attracted by the need to ensure that the constitution is readable and accessible, at the moment there is little appetite for major structural change. Such change is not, strictly speaking, necessary – the constitution conforms with practice elsewhere.

We do consider that:

- A preamble be introduced, to set out the purpose of the constitution and its culture, and to provide a guide to its contents;
- Key sections be quite substantially rewritten – in particular sections on decision-making and scrutiny, and elements of Council standing orders;
- Certain policies and protocols should be removed from the Constitution, with certain key elements of those policies and protocols incorporated into the main body of the Constitution proper;
- Other sections be reviewed to ensure that they are accessible and that they use language that is consistent – and to ensure that the document as a whole is properly cross-referenced.

Changes on accessibility and navigability would need to recognise that, while a substantial number of people accessing the document will do so on electronic devices, there are some (including members) who rely on the constitution as a “hard copy” document.

While we still consider that the constitution should be designed to be “digital first” (given the use we suggest of hyperlinks to assist in cross-referencing) we think that the Council should consider making a separate hard copy version available – so long as both officers and members can be confident that this will not result in out of date versions being in circulation. In any event, further support should be provided to councillors to be able to access the constitution online where possible.

### 4.3 A new approach to scrutiny and oversight of decision-making

#### *Summary*

Arrangements for member oversight of decision-making could be better, with the scrutiny function not being especially effective in the eyes of many members.

As things stand opportunities to carry out oversight and review of decision-making hinge on the presence of two standing orders in the Council Procedure Rules – Standing Orders 7 and 39.

In our conversations with members and officers, there is a general acceptance that current arrangements for the referral and reservation of minutes, set out in these standing orders, is not sustainable. In our view there is no effective way of managing debate on minutes without duplicating business transacted in other forums. The consideration of the minutes of committees by Council is an old-fashioned practice which most local authorities have not carried out since the introduction of the new governance arrangements in 2000.

Some members see SO7 and SO39 as part of a system that, in one councillor’s words, “makes decisions impossible to get through”. Another felt that they were a way of “returning to the same business over and over again”. A number of councillors reported that the use of these standing orders in particular led them to be more disengaged from the council and its business.

From some councillors there is understandable caution about abolishing systems which are seen by some as providing important oversight. These councillors are more sanguine about

the operation of these two standing orders; some see their operation as being a function of the way that the council is balanced, and as offering a necessary safety valve. Opinions here do not fall down party lines, and it was difficult to find consensus in the context of the group discussions we held to support this process.

We recognise that these provisions can also provide councillors with a sense of accountability, and assurance, on the business being undertaken in other bodies. As such, the removal/amendment of these SOs should be seen alongside some of the other measures laid out in this section – a single package of changes that together will hopefully provide members with confidence and assurance on their powers and responsibilities, particularly with regard to oversight of decision-making.

There was a cautious welcome from some to the idea of more plural member involvement in agenda planning. Members were not keen on establishing a new formal committee for this however, as we note below.

### Executive decision-making

The Constitution should incorporate a **flow chart or process map** setting out clearly the process by which decisions are made, highlighting how lead officers and members will be identified and how other councillors (and the public) can expect to feed into the process. This could be an expansion of the diagram present in the Annex to the Scrutiny Procedure Rules. It would explain some of the systems that we describe later in this section.

The opportunity exists to review how Cabinet decision-making is carried out in two ways – neither of which we consider is necessary at this time.

1. A review of “local choice” functions (those functions which the Council can place under the purview of either full Council or Cabinet at its discretion). The current balance of functions between Council and Cabinet seems right and has not been raised to us as a concern. It does, however, play into some of the issues below on delegation.
2. The introduction of individual cabinet member decision-making. The current model of Cabinet decision-making is not unusual (although it is more common for councils to operate individual cabinet member decision making). There does not appear to be an appetite for individual Cabinet member decision-making on its own, but some councillors have expressed an interest in it if it is accompanied by a reduction in the powers for officers in the scheme of delegation. This can be summarised as a change to ensure that some (or most?) decisions currently delegated to officers instead being made by Cabinet members individually, advised by officers. While a move to individual Cabinet member decision-making may be something the Council wishes to pursue in the long term there is no clear driver for it at present.

### A new role for scrutiny and a strengthened approach to call-in

There is a clear opportunity for the scrutiny function to play a more central role in effectively, constructively holding to account the Cabinet. This can involve oversight of performance issues and the need to consider major decisions some time before they are made. A strengthened scrutiny function should give councillors the confidence to draw back from excessive use of call-in, and from the use of standing orders 7 and 39.

Call-in arrangements particularly need to change. **If call-in is focused on fewer, but more fundamental, issues, it provides councillors with the time and space to delve into**

**those decisions which really need it in more detail.** As things stands members' efforts are spread too thin to make a real difference.

Members generally (but not universally) thought that call-in needed reform, and that there was a tendency to be able to use it "for mischief".

We think that call-ins:

- Should be able to be requested by a higher number of councillors, possibly expressed as a proportion of the total size of a given committee. We recognise that non-aligned councillors in particular may feel that requiring that a larger number of councillors request a call-in works to their disadvantage. We think however that this should be seen against the broader opportunities to influence decision-making set out in this paper. The appropriate number of members should be determined through benchmarking with similar councils;
- Should be subject to more rigorous criteria to determine whether they are valid. This should be a matter for Council to determine, and would need to be considered in light of the other changes we recommend in this paper. An outcome should, however, be a reduction in the number and frequency of decisions being called in.

**Call-in sits alongside the need for the scrutiny function to be more actively involved in carrying out work before a decision is made** ("pre-decision scrutiny"), potentially alongside a clearer role for Cabinet Working Parties (which we touch on below). Here, the constitution could:

- Set out in respect of what major decisions enhanced pre-decision scrutiny, or member involvement, might be needed;
- Establish how the best forum for this work would be carried out – through scrutiny or through a Cabinet Working Party;
- Set out, given these enhanced opportunities for scrutiny, how call-in arrangements could change. We consider that (as set out above) the perceived need for call-in will be substantially lessened where this enhanced scrutiny applies, and that this may be reflected in the way that call-in criteria are drafted.

It was also suggested that changes could be made to Council agendas to provide more opportunity for debate on high profile, contentious issues. Certainly, the removal of SO.7 and SO.39 means there is likely to be the space for more of this kind of work at Council. Two possibilities were suggested to us by councillors:

- The introduction of opposition-led debates – informed by papers produced by council officers in support of opposition members. We are unconvinced of the value of this – particularly given that opposition councillors already have the opportunity to instigate debates of this nature through motions. We would instead suggest that the removal of references to council allow for more time for substantive debate on motions, with the presumption being that they will always be debated at full Council rather than being passed to cabinet working groups (as currently happens), with Council agendas being planned accordingly;
- The timetabling of contemporary debates at the beginning of agendas. This could well be a productive way of working – as long as the subject matter for such debates can be decided cross-party, as we describe below.

In short, new decision-making arrangements could provide for an enhanced form of scrutiny in scrutiny committees themselves, where decisions are expected to be especially contentious, or complicated or high profile. This enhanced scrutiny could come pre-decision, or post-decision by way of call-in (if members, for example, felt that pre-scrutiny of the matter

in question was inadequate). We feel that this would meet the criticism of a number of councillors that the scrutiny process is a weakness.

Strengthening scrutiny arrangements in this way (or in a similar manner) is in our view the lynchpin of some of the wider improvements we mention elsewhere in this paper. Without those improvements councillors will not, we think, have the confidence and assurance to remove powers to refer minutes to Council, or to use call-in more proportionately.

In saying this it is important to recognise that action on scrutiny requires the Cabinet to work in different ways too – in particular, to be prepared to engage in cross-party discussions to identify important matters as they arise and to be proactive about referring them to scrutiny, even if referral may sometimes feel, in the short term, politically inconvenient.

Central to this will therefore be the adoption of a **cross-party approach to the management of key council and Cabinet business.**

Initially we mooted the expansion of the remit of the Council's General Purposes Committee – for that committee to provide a space for determining how and where high profile, major decisions would be subject to the enhanced forms of scrutiny and debate described above. We recognise following member feedback that these kinds of discussions at formal committee would feel disproportionate. Instead we suggest:

- Regular meetings of Group Leaders, to keep lines of communication between parties open and to identify and agree where that “enhanced” scrutiny and oversight to be appropriate. In particular these discussions would:
  - Identify forthcoming major decisions, and suggest mechanisms (usually through the scrutiny process) to involve more councillors;
  - Consider forthcoming Council agendas, and how business can be managed to maximise the opportunity for councillors from all Groups (and none) to play an active part;
- Those discussions to feed into the development of the council's schedule of key decisions, to ensure transparency;
- Those discussions to be informed by officer advice – and therefore to be driven by the need for officers in particular to think proactively about where forthcoming decisions (ones for Cabinet decision in, say, three or four months time – recognising it will not always be possible to predict that far ahead).

#### Clarity on public rights

Either as part of the preamble, or a separate Protocol or explanatory note, the Council should set out the public's rights to engage with the authority – details of which may be present elsewhere (for example in standing orders) but would be made more accessible through being summarised in a single place.

The opportunity may also exist to set out principles by which the council will engage, and consult, with local people in the transaction of its work.

For example:

- Arrangements for public questions at Council and at Cabinet;
- Arrangements for petitions (and, as we recommend below, deputations) to Council and Cabinet;
- The public's rights to access information held by the council (separate, but cross-referenced, to members' rights as set out elsewhere).

In making these changes we suggest that councillors will want to determine the best way forward on:

- Notification of questions from the public. Arrangements for public questions (primarily at Council and Cabinet);
- Arrangements for public input in other meetings. Usually council meetings are regarded as “meetings held in public” and not “public meetings”. However, we recommend that the Council gives thought to where a meeting’s Chair might think it appropriate to invite substantive contributions from members of the public present if they consider that it would add value to a discussion or debate.

#### 4.4 Other structural changes to Procedure Rules / Standing Orders, and council Policies and Protocols

It is worth noting that the Council Procedure Rules incorporate rules for Cabinet and for other committees. To ensure that it is clearly understood to which bodies individual rules apply, these should be separated out into three sections. These should be:

- Council Procedure Rules;
- Cabinet / Executive Procedure Rules (which should be cross-referenced against the relevant sections of the Part on Decision-Making and Scrutiny). This would include arrangements for the election and removal of the Leader and the formation of council committees;
- General Committee Procedure Rules. This should include:
  - Planning and Licensing Committee Procedure Rules;
  - Disciplinary, and other quasi-judicial, Committee Procedure Rules;
  - Scrutiny Procedure Rules (which should be cross-referenced against the relevant sections of the Part on Decision-Making and Scrutiny) – to include rules on the operation of the Councillor Call for Action.

Fuller detail on proposed changes to procedure rules is provided in the appendix.

#### 4.5 Changes to the scheme of delegation

Councillors will need to consider if the scheme as it stands meets their needs. From many councillors we have heard the view that they want more oversight over decisions made by officers. Practice around delegation appears to have built up over time – **as well as a set of decision-making principles we think that the council could articulate some principles to judge the appropriate level of delegation on any matter**. Some anecdotal examples have been raised to us of fuzziness in operational decision-making between officers at different levels and the relevant Cabinet members; although we have been unable to substantiate these suggestions the risk of unclearness is present, and the use of principles to underpin the arrangements will help to iron out inconsistencies.

As it stands the scheme is fairly standard. BB make suggestions for format changes, with which we do not wholly agree. We would suggest changes to:

- Put all delegated powers in a table format, to make it easier to follow the statutory basis for individual delegations;
- Set out the circumstances under which officers would be expected to consult with members on decisions;
- Provide clarity on reporting arrangements to members when delegated powers are used.

## 4.6 Protocols on conduct, behaviour and relationships

We suggest that the Member Code of Conduct, the Officer Code of Conduct and the Protocol on Councillor / Officer Relations be brought together in the same place, and redrafted to ensure consistency, to ensure that mutual responsibilities and roles are better understood. This would also emphasise that similar standards of conduct and behaviour are expected of both councillors and officers. **The combined material should better highlight mutual roles and responsibilities, as well as collective responsibilities for good governance. It should be used as the basis for ongoing training and development for councillors and officers.**

This set of Protocols should include:

- An explanation of the fundamental requirement for the council to deliver a balanced budget – and members' and officers' mutual roles in doing so - and to provide services as set out in law, as well as the need for the council to be seen as accountable to the people it serves in the local community;
- An explanation of the roles and responsibilities of key council officers (the Head of Paid Service, the s151 officer, the Monitoring Officer, the statutory scrutiny officer), incorporating relevant parts of the Finance Procedure Rules;
- A summary of the process whereby the council will agree its Annual Governance Statement (and member oversight of that process);
- Information about the role of the council's Appointments and Disciplinary Committee, the Audit Committee and the Standards Committee (cross-referenced to committee procedure rules set out elsewhere);

The opportunity should also be taken in these redrafted Protocols to provide more clarity about how councillors should be supported by officers – councillors to whom we spoke were vocal about the need for this clarity.

This could include more explicit reference to:

- the appointment of political assistants (subject to a mandatory Standing Order),
- the provision of equitable support to councillors in Groups (and arrangements for the support of independent/non-aligned councillors)
- arrangements for member training and development.
- provision for a clearer system for dealing with member requests (where officers need help accessing information, understanding an issue, or supporting local residents).

BB note the need for more detail in the constitution on councillors' general rights to access information. This needs to be framed in the context of councillors' needs to support them in the scrutiny and oversight of decision-making. For this reason **the constitution should set out the kinds of information that councillors should expect be made available regularly** – for example, background papers in respect of key decisions.



**Appendix: more detail on CfGS's views on standing orders and protocols, as they are currently**

Standing Orders (Council Procedure Rules)

Standing Order	Description, recommendation
1.7	<p>Notices of Motion should not stand referred to Cabinet, as they are Council, not executive, business. They should not stand referred to the relevant scrutiny committee either (as scrutiny committees are considered in charge of their own work programmes). The presumption should be the Motions should be debated at the relevant Council meeting for which notice has been given. Agendas should be designed to avoid the necessity to hold over Motions to the next meeting.</p> <p>For meeting extension, the rules on how to deal with remaining business will require alteration in line with recommendations below.</p>
4	<p>The Order of Business will need to be changed in line with recommendations below.</p>
6	<p>The Chief Executive should be granted the power to reject questions where they are considered to be out of order. This may be on the advice of the Monitoring Officer.</p> <p>There should be provision for the tabling of urgent questions, where notified to the Chief Executive up to (say) 5pm on the date of the meeting itself. This would allow questions to be asked on pressing or emerging local or national issues.</p> <p>There should not be a general public right to ask questions in scrutiny committees, as scrutiny committees are not decision-making bodies. However, this power should be available to local people in respect of Cabinet meetings.</p>
7	<p>Removal of minute referral arrangements, as set out in the section above.</p>
15	<p>Petitions should be referred either to Cabinet or to Council, with advice being given by the CEO and/or Monitoring Officer as to the best forum, depending on which body holds decision-making power in respect of the matter in question. Councillors should still retain the right to put any petition to Council notwithstanding such advice.</p> <p>In the medium term the Council should draft a new petition scheme, which would make this SO redundant.</p>

	This SO should be amended (or a new SO added) to provide for public deputations.
25-27	Move to the Contract Procedure Rules (but cross-reference here)
28	Incorporate into Member Protocol on Access to Information
34	Retain the rule that Committees cannot establish Sub-Committees on their own.
35	Remove the right for any Member to place an item on the agenda of any Committee, Sub-Committee or Working Party. The Chairs of such bodies, and the members of such bodies, should be able to take a vote on whether to include matters on the agenda of future meetings. This also connects with the renewed focus for scrutiny set out in more detail in the body of this paper.
36	Amend to reflect executive arrangements (with Cabinet working groups being established by Cabinet only)  Information on decision-making may require more detail on the business to be transacted by Cabinet Working Parties, to be cross-referenced here.
37	Speaking rights should be simplified. The right of a councillor to speak at a public meeting should be at the discretion of the Chair. The right of a councillor to attend a meeting where exempt matters are being discussed should be at the discretion of the Chair subject to the advice of the Monitoring Officer, and should generally follow councillors' information rights.
39	Remove, but accompany removal with a strengthening of the call-in arrangements. Set out in more detail in the section above.

#### Policies, protocols, codes

Name of policy / protocol	Suggested action
"Member Code of Conduct" (Part 5(a))	The Member Code of Conduct should be made more prominent, and more closely tied with the similar code for officers, and the

	<p>member-officer protocol, In doing so, the Complaints Against Members Procedure Rules (Part 4(i)) should be incorporated into the Code.</p> <p>In particular, the Nolan Principles (“Seven Principles of Public Life”) should be rendered more prominent, and should be introduced alongside the Council’s decision-making principles (see below).</p>
<p>“Probity in Planning” (Part 5(b))</p>	<p>Remove this policy from the constitution.</p> <p>This policy reproduces guidance issued by the LGA in 2002, and updated in 2009, 2013 and 2019. The version in the constitution appears to date from the 2009 iteration, but may incorporate more recent amendments.</p> <p>Some of the elements of this policy can be incorporated into committee procedure rules relating to planning. Some can be incorporated in a new section on probity and ethical behaviours (see above).</p>
<p>“Employee Code of Conduct” (Part 5(c))</p>	<p>Incorporate this policy / protocol into protocol on officer conduct. In doing so, the Officer Employment Procedure Rules (Part 4(h)) should also be incorporated.</p> <p>This protocol will also need to be rewritten to ensure it is similar in tone to other constitutional material. The council will need to consider how council officers are held to the performance set out in the Code (ie, if explicit reference to the Code is made in officers’ conditions of employment).</p>
<p>“Protocol on Councillor/Officer Relationships” (Part 5(d))</p>	<p>This should be kept but updated to reflect other protocols, ensuring consistency – it should also include other detail as set out in the main body of this report.</p>
<p>“Simple and Effective Governance” (Part 5(e))</p>	<p>Remove this policy from the constitution. Some of its contents can be incorporated into the new Constitution preamble, and in member and officer protocols.</p>
<p>“Local Protocol on Councillor Call for Action” (Part 5(g))</p>	<p>Incorporation into the Overview and Scrutiny Rules of Procedure</p> <p>The process described is already relatively streamlined, and should be incorporated into the scrutiny rules, given that CCfAs are considered at scrutiny committees.</p>

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