

MUNICIPAL YEAR 2013/2014 REPORT NO. 176

MEETING TITLE AND DATE:

Members & Democratic
Services Group – 13
January 2013
Council – 29 January 2014

REPORT OF:

Director of Finance
Resources & Customer
Services
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Agenda – Part: 1

Item: 8

**Subject: Amendments to the Constitution:
Opposition Business and Member/Officer
Protocol & Membership of Councillor
Conduct Committee**

Cabinet & Other Members consulted: n/a

1. EXECUTIVE SUMMARY

- 1.1 Members & Democratic Services Group (13 January 2014) were asked to consider the outcome of reviews undertaken into (a) the procedure for dealing with Opposition Priority Business; and (b) the Protocol for Member/Officer Relations.
- 1.2 Having considered the outcome of each review MDSG agreed to refer the changes proposed as a result to Council for consideration and formal approval.
- 1.3 In addition the report also details a recommendation from the Councillor Conduct Committee for the provision of substitute members to serve on the Committee.

2. RECOMMENDATIONS

- 2.1 Council is asked to approve (as recommended by the Members & Democratic Services Group)
 - (a) The amendments to the procedure for dealing with Opposition Priority Business, as detailed within section 3.1 and Appendix 1 of the report.
 - (b) The updated version of the Protocol for Member/Officer relations as detailed within section 3.2 and Appendix 2 of the report.
- 2.2 Council is asked to approve (as recommended by the Councillor Conduct Committee) the provision for substitute members on the Councillor Conduct Committee (as detailed in section 3.3 of the report), along with the preferred option as to when their use would apply based on the proposals outlined in section 3.3.4 of the report. Subject to approval, each Group will then be asked to nominate 2 substitute members on the Committee.

3. BACKGROUND

3.1 Opposition Priority Business Procedure

3.1.1 At the last Council meeting (27 November 2013) a request was made for a review to be undertaken of the procedure relating to Opposition Business, in terms of the way that recommendations being made to Council should be presented.

3.1.2 The Procedure rules within the Constitution (Part 1 Chapter 4.2 – section 13) relating to Opposition Business currently require:

(a) Notification of a topic for discussion as Opposition Business no later than 21 calendar days prior to the relevant Council meeting.

(b) The provision of an issues paper by the Opposition Group in support of the topic notified, no later than 9 calendar days prior to the relevant Council meeting for inclusion on the Council agenda, The procedure rules state that:

“This paper should set out the purpose of the business and any recommendations for consideration by Council.”

3.1.3 Under the rules for debate on Opposition Business the procedure goes on, in section 13.3 (g) (vi), to state:

“The debate should contain specific outcomes, recommendations or formal proposals.”

3.1.4 At the last Council meeting a number of specific recommendations were identified for consideration during the debate on Opposition Business, which had not been directly referred to within the issue paper circulated as part of the Council agenda. This led to queries being raised on the procedure, in terms of it being possible for detailed actions to be identified as part of any response at the meeting, without advance notice having been provided.

3.1.5 In order to clarify the procedure, MDSG were asked to consider amending the requirement in section 13.3 (g) (vi) as follows:

“The issue paper should contain details of any specific actions or recommendations being put forward for consideration as an outcome of the debate on Opposition Business.”

3.1.6 MDSG, having noted that both Groups had been consulted on the proposal, approved the proposed change for recommendation to Council. In addition the Group were asked to consider a proposal that would allow the Opposition Group to propose amendments to the initial recommendations in their issues paper. It was felt this would better

reflect the way in which other items of business are dealt with at Council meetings and provide some flexibility as the Opposition Priority business debate during the meeting was progressed. In order to clarify the position MDSG also therefore agreed to recommend that the following be included as an additional paragraph under the rules of debate for Opposition Business in section 13.3 (g):

“Amendments to the recommendations within the Opposition Business paper may be proposed by a member of the Opposition Group. They must be seconded. The member of the Opposition moving the amendment will state whether the amendment(s) is/are to replace the recommendations within the paper or be an addition to them.”

- 3.1.7 A copy of the Opposition Business Procedure with the recommended amendments show in tracked changes has been attached as Appendix 1 for consideration and approval by Council.

3.2 Protocol for Member/Officer Relations

- 3.2.1 Part 5 of the Council’s Constitution sets out the codes of conduct and protocols applicable to Members.
- 3.2.2 Chapter 5.5 sets out the protocol for Member/Officer relations and is intended to guide Members and Officers of the Council in their working relationships with each other.
- 3.2.3 The Members & Democratic Services Group (12 November 13) were presented with a report outlining a review of the Protocol undertaken in order to reflect a number of recent legislative changes and to update the document in order to ensure it remained as effective and useful as possible. At that meeting members highlighted a number of further drafting changes and an updated version of the protocol was presented to the Group at its meeting on 13 January 2014.
- 3.2.4 MDSG were supportive of the amendments made and, subject to some further minor changes agreed to recommend the updated protocol to Council for consideration and formal approval.
- 3.2.5 A copy of the updated protocol (incorporating the additional changes approved by MDSG) has been attached as Appendix 2. If required a copy showing the changes in” tracked” format can be provided to members, if they contact Jane Creer (Governance Services) on 020 8379 4093.

3.3 Membership of Councillor Conduct Committee

- 3.3.1 In addition to the issues referred by MDSG, Council is also asked to consider a Constitutional amendment referred by the Councillor Conduct Committee in relation to their membership.

3.3.2 At its meeting on 3 December 2103 the Committee was asked to consider guidance relating to the way that complaints and appeal hearings should be undertaken. During these discussions an issue was raised in relation to provision being made for the use of substitute members on the Committee. The Committee, by its nature, aims to operate in a non-party political way with its composition balanced politically in order to reflect this. Both Groups on the Council are currently represented by two members. Given the role of the Committee it is not always possible for members to attend meetings either where they have been arranged at short notice to consider specific issues or where the member concerned may have a specific interest in a case due to be considered.

3.3.3 In order to maintain the balance on the Committee, it is therefore proposed that the use of substitute members be permitted on the Councillor Conduct Committee. Both Groups have been consulted on the options available and have agreed that provision should be made for the nomination of 2 substitute members by each political group on the Committee.

3.3.4 In terms of available options the Majority Group are in favour of substitute members being permitted in the following circumstances:

- (a) To take the place of an ordinary member from the respective Group on the Committee where that member will be absent for the whole of the meeting. Such an appointment would apply for the entire meeting, including where the meeting is reconvened after any adjournment; or
- (b) Where an ordinary member of the Committee is prevented from attending and participating in a meeting due to any disclosable interest they may have in an issue or complaint to be considered. In these cases the substitute appointment would only apply to the consideration of the relevant item on the agenda.

The Opposition Group are only in favour of substitute members being permitted in the case of (b) above and not in cases where members are unable to attend the Committee due to other commitments.

Whilst supportive of the use of substitute members, the different options put forward by each respective Group have been outlined in order for Council to make a final decision as to how and when the provisions should apply.

3.3.5 Subject to 3.3.4 above, the appointment of the two substitute members by each Group will need to be confirmed by full Council. The Committee member who then wishes to appoint a substitute member would have to notify the Monitoring Officer in writing, prior to the beginning of the relevant Committee meeting of the intended

substitution. The appointment of that substitute would then need to be reported to the relevant Committee meeting at the start of the business on the agenda.

Once notification of a substitute member has been received the ordinary member of the Committee will not (unless the notice of substitution is withdrawn prior to the start of the meeting) be entitled to attend the relevant meeting or part of the meeting to which the substitution applies as a member of the Committee.

- 3.3.6 Any members nominated as substitutes will be required to attend the necessary training in advance of them attending any meeting of the Committee.

4. ALTERNATIVE OPTIONS CONSIDERED

Not to make the changes detailed within the report. The recommended changes to the Council's Constitution in respect of Opposition Business & membership of the Councillor Conduct Committee have been designed to clarify procedures and reflect consultation undertaken with both political groups. The revision of the Member/Officer relations protocol is designed to reflect a number of recent legislative changes and ensure the protocol remains as effective and useful as possible

5. REASONS FOR RECOMMENDATIONS

To update and clarify the procedures and arrangements relating to Opposition Business, handling of complaints against members and the protocol for Member/Officer relations.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

None – the changes required to the Constitution will be met from within existing resources.

6.2 Legal Implications

The changes proposed to the protocol for Member/Officer relations have been designed to reflect recent legislative changes within the Localism Act 2011 as well as update the document. The changes proposed to the procedure for dealing with Opposition Business and in relation to the introduction of substitute members on the Council Conduct Committee are matters for local discretion by the Council and have been subject to consideration with the necessary decision making bodies affected. Any changes to existing requirements within the Constitution will require formal approval by Council.

7. KEY RISKS

The changes recommended are designed to ensure that the Council's decision making procedures are as clear and easy to follow as possible. Not complying with the changes agreed as a result could open the decision making process up to potential future challenge.

8. IMPACT ON COUNCIL PRIORITIES

Fairness for All & Strong Communities

The proposed change has been designed to ensure that transparency and openness in relation to the Council's decision making arrangements is maintained.

9. EQUALITIES IMPACT IMPLICATIONS

It has not been necessary to carry out an Equalities Impact Assessment in relation to this proposal.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The proposed change has been designed to assist the Council in managing its business in as efficient and effective a way as possible.

11. PUBLIC HEALTH IMPLICATIONS

There are no specific public health implications arising from the proposals within this report.

Background Papers

None