

# AUDIT AND GOVERNANCE COMMITTEE



Report subject	<b>Review of the Council's Constitution - Recommendations of the Constitution Review Working Group</b>
Meeting date	16 February 2023
Status	Public Report
Executive summary	<p>The report summarises the issues considered by the Constitution Review Working Group and sets out a series of recommendations arising from the Working Group for consideration by the Committee.</p> <p>Any recommendations arising from the Committee shall be referred to full Council for adoption.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <ul style="list-style-type: none"> <li><b>(a) the amendments to the Constitution relating to the Regulatory Committees, as detailed in paragraphs 13(a) to (e) to this report, be approved;</b></li> <li><b>(b) the amendment to Part 4D, Procedure Rule 23.4 (Substitute Members), as detailed in paragraph 15 to this report, be approved;</b></li> <li><b>(c) the insertion of paragraph 1.1.2 to Article 1 (Powers and Duties of the Council) and the amendment to Part 4A, Procedure Rule 25.2 (Additional Rights of Access for Councillors), as set out in paragraphs 18 and 19 to this report, be approved;</b></li> <li><b>(d) no changes be made to the structure or frequency of meetings of the Overview and Scrutiny Committees at this time but this be considered by the Council following the elections in May 2023;</b></li> <li><b>(e) the dates for the respective Overview and Scrutiny Committees, as set out in paragraph 28 to this report, be agreed for 2023/24, subject to the subsequent review by the Council after the elections;</b></li> <li><b>(f) the amendments to Part 4D, Procedures Rules 13.4 to 13.27 (Public Questions, Statements and Petitions), as detailed in paragraph 39 to this report, be approved;</b></li> <li><b>(g) the amendments to Part 6, Schedule 1 (Arrangements for dealing with allegations of breach of the Code of Conduct for Councillors), as set out in paragraph 43 to this report, be approved;</b></li> <li><b>(h) the amendment to Part 4A, Procedure Rule 24.3, (Access</b></li> </ul>

	<p><b>to document – Overview and Scrutiny Committees), as set out in paragraph 52 to this report, be approved;</b></p> <p><b>(i) the amendments to Part 3A, (Responsibility for Functions – Planning Committee) and Part 4A (Meeting Procedure Rules – Voting), as set out in paragraph 57 to this report, be approved;</b></p> <p><b>(j) any necessary and consequential technical and formatting related updates and revisions to the Constitution be made by the Monitoring Officer in accordance with the powers delegated</b></p>
Reason for recommendations	To make appropriate updates and revisions to the Constitution following consideration by the Working Group
Portfolio Holder(s):	Not applicable
Corporate Director	Graham Farrant (Chief Executive)
Report Authors	Richard Jones (Head of Democratic Services)
Wards	Not applicable
Classification	For Recommendation

## Background

1. The Terms of Reference of the Audit and Governance Committee includes 'Maintaining an overview of the Council's Constitution and governance arrangements in all respects'.
2. In discharge of this responsibility the Committee established a Constitution Review Working Group of five of its Councillors.
3. The current members of the Working Group are Councillors Fear (Vice-Chair of Audit and Governance Committee and Chair of the Working Group), Beesley (Chair of Audit and Governance Committee), Brooke, D Butt and Cox. The Group receives advice from the Monitoring Officer and from the Head of Democratic Services. From time to time, as required, Officers and Councillors with specialist responsibility have been invited to have an involvement.
4. Since its establishment, the Working Group has continued to meet on a regular scheduled basis and completed various phases of its work. Most recently, a wide range of recommendations were submitted to full Council on 5 December 2022. Those recommendations that were agreed by Council have been implemented and incorporated into a revised and updated version of the Constitution. These are included within the current version of the Constitution dated as 5 December 2022 and available on the Council website.
5. The Working Group has considered suggestions received from a wide variety and range of sources including input from Councillors and from Officers. Prior to commencement of its work, the Chair of the Audit and Governance Committee wrote to all members of Council asking them to submit items for discussion and consideration. This invitation has been repeated from time to time as the Group has progressed through its programme of work.

## **Timetable**

6. The Working Group has now been reconvened for a further phase of work with a view to concluding its work within the lifetime of the current Council. This will ensure that any changes are in place leading up to the Council elections in May 2023 and can be implemented within the new Council.
7. In order that any changes to the Constitution can be included and implemented before the election, it will be necessary to make any final recommendations to the meeting of the Council on 21 March 2023. This report to the Audit and Governance Committee has been informed by meetings of the Working Group held on 8 December 2022 and 24 January 2023.

## **Format**

8. Throughout the work of the Group a 'Forward Plan' of issues has been maintained and added to as additional issues have arisen.
9. The proposed changes are shown with track changes (in red and in red outline boxes) to assist in identifying the proposed changes. Any text shown in blue shows consequential formatting changes only and do not require consideration by the Committee. Page number references are to pages within the current Constitution.
10. A number of matters which were considered by the Working Group were not supported or deferred for later consideration post-election. These are set out in Section A to this paper. Those matters supported and subject to a recommendation to change the Constitution are set out in Section B to this report.

## **Section A - Rejected or Deferred Matters**

11. The following matters were considered by the Constitution Review Working Group and either rejected with no further action required or deferred for consideration by the new Council after the elections. These are summarised as follows:-
  - (a) District Auditors recommendations relating to Declarations of Interest – Rejected with referral back to District Auditor suggesting that the representations should be referred to the Local Government Association to consider when reviewing the model Code of Conduct.
  - (b) Budget Meeting Procedure Rules – Although the Working Group recognised the need for separate Budget and Policy Framework Procedure Rules in Part 4 of the Constitution, it understood that there is not enough time to complete the work and obtain the approvals required ahead of the Council budget meeting on 21 February 2023. Sufficient provisions to be compliant are currently included in various parts of the constitution, including the Financial Regulations and are considered sufficient pending the scheduling of the consideration of a draft stand-alone Budget and Policy Framework as soon as possible after February 2023.
  - (c) Special Severance Payments – It was noted that this was now part of a wider work package being led by HR and would be incorporated into a separate paper in due course.
  - (d) Reply to Supplementary Questions by Councillors – The existing procedure rules relating to supplementary questions by councillors allows for a response to not be provided if the question is 'inappropriate'. The Working Group noted that this was standard wording in Constitutions and no changes were required.

- (e) Urgent Business / Amendments to Business – The Working Group considered a request to permit officers to withdraw or defer items of business after the publication of the agenda. This was not supported and no changes were proposed to the Constitution.
- (f) Format of the Constitution – The Working Group considered a request to reformat the Constitution but acknowledged there was insufficient resources available to reformat the entire Constitution at this time.

## **Section B - Supported Matters**

12. The following issues were supported by the Working Group for consideration by the Committee. A summary explanation of each issue is provided and the proposed changes are shown below each issue with track changes for ease of reference.

### **Issue 1 – Regulatory Committees – Public Participation Protocols, Voting, Site Visits and Meeting Attendance**

13. The Working Group was advised of a recent High Court case, and the need to review a number of provisions in the Constitution impacted by the judgement.

#### **(a) Public participation at meetings – Planning, Licensing and Appeals Committee protocols**

The Constitution refers in Part 4D (Meeting Procedure Rules), Rule 13.3 [page 4-42] to protocols established by the respective regulatory committees. The proposed changes seek to provide clarity as to the scope of Public Speaking Protocols created by the identified committees and to better link those protocols to Part 4D of the Constitution.

#### **13. Public participation at meetings**

13.1. The following procedures enable members of the public to submit questions, make statements and present petitions at ordinary meetings of the Council, Cabinet, Committees and Sub-Committees.

13.2. The time for questions, statements and petitions from members of the public shall normally commence immediately after the item 'Declarations of Interest' on the agenda for the meeting and shall be restricted to a total of 15 minutes, although, at the discretion of the Chair of the Council or the Chair of the meeting, this time may be extended. Where a question to which an answer is to be given is not reached within the time limit, a written answer shall be provided to the questioner within two working days of the meeting and a copy e-mailed to all Councillors.

13.3. This procedure does not apply to Planning Committee, Licensing Committee or Appeals Committee. ~~Separate protocols establish the arrangements for public representations at Planning and Licensing Committees. Such protocols are reviewed and approved by the respective Committee, included within Part 6 of the Constitution and published on the website. In so far as the law allows, each of those Committees may adopt one or more protocols / codes for establishing the arrangements and proceedings regarding any public representation at the Committee or any of its Sub-Committees.~~

13.3.1. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

13.3.2. A protocol / code may make provision limiting the ability of a member of the public to speak on any item and may also limit the right of a Councillor who is not appointed to that Committee to speak.

~~13.2.4.~~13.3.3. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

**(b) Voting**

Procedure Rule 18 to Part 4D (Meeting Procedure Rules) [page 4-52] establishes the rules relating to voting. The proposed changes recognise that certain protocols/codes contained in Part 6 of the Constitution limit Councillor voting opportunities in certain situations, e.g., the Councillor Code of Conduct; the Planning Site Visit protocol, etc.

**18. Voting**

18.1. It is the responsibility of each Councillor to properly inform themselves and ensure that they are sufficiently appraised of any matter before voting.

18.2. Voting will be by a show of hands or where practical and the means are available to those present, by electronic means. Where there is a clear majority in favour of a proposal the person presiding will ask if any Councillor wishes to vote against or abstain from a proposal.

18.3. When a Councillor asks for a recorded vote to be taken, and one quarter of Councillors present support the request, the vote will be recorded to show whether each Councillor voted for or against the motion or abstained.

18.4. A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

18.5. A Councillor may require, after a vote is completed, that the minutes of the meeting record how they voted or abstained.

18.6. Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.

18.7. Any right of a Councillor who is appointed to any body of the Council to vote on a particular item may be limited by proceedings contained or identified in this Constitution.

~~18.6.~~18.8. For the avoidance of doubt, any Code or Protocol which is, or is identified as to be, incorporated into Part 6 of this Constitution shall be construed as being proceedings and part of these procedure rules.

**(c) Site visits and arrangements, etc.**

This proposal is to consider the introduction of a new procedure rule (numbered as 29) to Part 4D (Meeting Procedure Rules) relating to site visits and associated arrangements. This provision does not require councillors to adopt any protocol but simply and transparently recognises within Part 4D of the Constitution the scope for them to do so in relation to these more 'quasi-judicial' type committees. This change establishes a stronger link between the Constitution and any protocols that may be adopted. There already exists some protocols to which this provision relates. As such the new rule will also help give clarity as to the status of those protocols that have already been adopted.

## **29. Site Visits and consideration of certain items at meetings - Planning Committee, Licensing Committee and Appeals Committee**

29.1. In so far as the law allows, the Planning Committee, Licensing Committee and Appeals Committee may each adopt one or more protocols / codes for establishing the arrangements and proceedings for any of the following purposes of that Committee or their Sub-Committees (if any):

29.1.1. the undertaking of a site visit; and

29.1.2. consideration of any matter relating to an actual or possible application, appeal and/or review for which it has responsibility including proceedings governing the consideration and assessment of any supporting information provided by a party in relation to any such matter.

29.2. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

29.3. A protocol / code may limit the voting ability of a Councillor who is appointed to any of those bodies in circumstances where the Councillor:

29.3.1. fails to attend the whole or any part of a site visit; and/or

29.3.2. is not present during the whole or any part of the consideration (including any officer presentation and/or public speaking) of an application, appeal and/or review (or related matter), including where such an item falls to be considered over more than one meeting.

29.4. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

### **(d) Local Code of Best Practice relating to Planning Matters**

Part 6, Schedule 3 establishes a local Code of Best Practice relating to Planning Matters. Paragraph 4.16 [page 6-30] sets out requirements for the consideration of all relevant information. The proposed changes seek to clarify the existing provisions.

#### **Considering all relevant information**

4.16. It is important that every councillor's decision takes account of all relevant planning considerations including any relevant representations and consultation responses. Any councillor who is absent during any part of the Planning Committee's consideration of an application (including any related officer presentation and public speaking) should not take any further part in the discussions on the application or vote on that application.

### **(e) Case where officers think certain delegations would be better taken by committee (Licensing)**

Part 3 (Responsibility for Functions) establishes the delegations to Committees and Officers. The proposed changes seek to establish new provisions to permit officers, responsible for licensing, to refer a matter to the committee, which would



otherwise be delegated to them for determination. The existing scheme of delegation does not permit this. The proposal is to establish new provisions as paragraph 3.2.5 [page 3-12] for licensing. A similar modification is requested for Planning Committee but this is included with Issue 8 to avoid duplication.

**Full Council has delegated specific non-executive functions to the following bodies listed below.**

### **3. Licensing Committee**

3.2. The Licensing Committee has responsibility for the following:

3.2.5. determining any matter arising in relation to any Licensing Function where that matter has been expressly referred to the Licensing Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Scheme of Delegation to Officers.

- 14. It is RECOMMENDED that the proposed amendments as set out in paragraphs 13 (a) to (e) above, be approved.**

### **Issue 2 - Substitute Member Notification**

15. Procedure Rule 23 (Substitute Members) to Part 4D of the Constitution [page 4-53] makes provision for substitute members. Rule 23.4 defines the reporting arrangements at meetings. This proposed change recognises that in practical terms it is not always the Monitoring Officer who informs the relevant body of the appointment of a substitute and seeks to align wording to provide consistency with other provisions in the Constitution.

### **23. Substitute Members**

23.4. On receipt of a Notice under this Procedure Rule the Monitoring Officer or their appointed nominee shall, at the meeting (prior to the commencement of the main business) inform the Committee or Sub-Committee.

- 16. It is RECOMMENDED that the amendment to Part 4D, Procedure Rule 23.4, as set out in paragraph 15 above, be approved.**

### **Issue 3 - Drafting Issues - Inclusion and Interpretation of Legislation**

17. At recent meetings of the Committee, questions have been asked relating to specific wording of the Constitution and suggesting that the Constitution does not reflect the requirements of legislation.
18. The purpose of the Constitution is not to reproduce all relevant legislation. Provisions and requirements of primary legislation supersede the Constitution and should a conflict exist, the legislation would take precedence. The Working Group noted this position but requested that an explanation to this effect be included in Article 1 (The Constitution), new paragraph 1.1.2 [page 2-4]. The proposed amendment is set out below.

## Article 1 - The Constitution

### 1.1. Powers and Duties of the Council

1.1.1. The powers and duties of the Council are established by legislation and clarified through statutory guidance and case law. The Council will exercise those powers and duties in accordance with the law and this Constitution.

4.1.1-1.1.2. The Council's Constitution does not contain references to all legislative provisions. Should there be any provision in this Constitution which is at variance to any legislative or legal requirement, the relevant provision shall take precedence over this Constitution.

19. The relevant sections of the Constitution to which the representations referred have been reviewed and are consistent with the principles of the corresponding regulations with one exception. Procedure Rule 25 to Part 4A (Access to Information Procedure Rules) sets out additional rights of access for Councillors. Rule 25.2 makes specific reference to limiting this to key decisions but should equally apply to non-key decision. It is proposed that the word 'Key' is deleted accordingly.

### 25. Additional rights of access for Councillors

25.2. All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Cabinet including its Committees and Sub-Committees which relates to any ~~Key~~ Decision unless Rule 24.4 of this Part 4A applies.

20. It is **RECOMMENDED** that the amendments to Article 1, paragraph 1.1.2 and Procedure Rule 25.2, as set out above, be approved.

## Issue 4 - Place Overview and Scrutiny Committee – Frequency of Meetings

21. The Place Overview and Scrutiny Committee at its meeting on 16 November 2022 passed a resolution for the Constitution Review Working Group to consider whether the arrangements for Overview and Scrutiny and in particular the Place Committee were sufficient. In passing the resolution, the Committee wished to increase the frequency of meetings to enable it to better shadow the Cabinet meetings which meets monthly. The Chair of Place Overview and Scrutiny Committee attended the meeting of the Working Group.
22. The current arrangements, approved by Council, is for five meetings of each of the four Overview and Scrutiny Committees to be held annually, although there is provision in the Constitution for the Chair of each Committee to agree to convene special meetings.
23. The number of meetings held to date or remain scheduled to be held in 2022/23 are as follows:-

Children's Services O&S Committee	5 meetings
Corporate and Community O&S Committee	9 meetings (including 4 special meetings)
Health and Adult Social Care O&S Committee	5 meetings
Place O&S Committee	6 meetings (including 1 special meeting)



24. The number meetings has already exceeded that intended by the Council resolution. This has largely been due to the increased Financial Update reports to Cabinet which the Corporate and Community Overview and Scrutiny Committee wished to scrutinise through additional special meetings.
25. The Working Group acknowledged that Democratic Services did not wish to prevent democracy taking place and indeed promotes and encourages active and healthy governance arrangements. However, it is critical that the service is adequately resourced to support meetings and councillors in performing their duties. It was noted that the service was at a critical level and was only able to support the current level of demand, which has been further stretched by additional pressures to support the regulatory services, etc. It was further noted that the estimated cost of providing additional capacity to support 8 additional committee meetings would be in the region of £9,500.
26. The Working Group recognised that Overview and Scrutiny was not operating as effectively as it could and that opportunities to develop policy and track decisions was not presently a priority with Cabinet report scrutiny being the main focus.
27. There were a number of improvement areas identified, including improved engagement with councillors by committee Chairs, use of scrutiny review scoping pro-forma, and open and proactive discussions. However, it was considered appropriate to allow the new Council to determine those arrangements as well as the structure and frequency of meetings after the elections in May. It was also considered critical that all councillors should attend training for overview and scrutiny including models of best practice.
28. It is **RECOMMENDED** that:-
- (a) **no changes be made to the structure or frequency of meetings of the Overview and Scrutiny Committees at this time but this be considered by the new Council following the elections in May 2023, and**
- (b) **the following interim dates be agreed for 2023/24, subject to the subsequent review by the new Council:**

**Corporate and Community Overview and Scrutiny Committee (6.00pm)**

Monday 12 June 2023  
Monday 9 October 2023  
Monday 4 December 2023  
Monday 29 January 2024  
Monday 18 March 2024

**Children's Services Overview and Scrutiny Committee (6.00pm)**

Tuesday 6 June 2023  
Tuesday 19 September 2023  
Tuesday 21 November 2023  
Tuesday 23 January 2024  
Tuesday 19 March 2024

**Place Overview and Scrutiny Committee (6.00pm)**

Wednesday 31 May 2023  
Wednesday 19 July 2023  
Wednesday 11 October 2023  
Wednesday 6 December 2023  
Wednesday 28 Feb 2024

**Health and Adult Social Care Overview and Scrutiny Committee (6.00pm)**

Monday 5 June 2023  
Monday 25 September 2023  
Monday 27 November 2023  
Monday 15 January 2024  
Monday 4 March 2024

**Issue 5 - Public Participation at Meetings – Referral by Council**

29. Full Council, at its meeting on 5 December 2022, referred the Constitution changes relating to Public Participation back to the Constitution Review Working Group for

reconsideration due to concerns raised regarding the impact of some of the changes upon those with protected characteristics.

30. The majority of the changes previously proposed were to address issues of ambiguity, provide clarity on issues of interpretation, afford additional time to submit some items and to align the requirements for questions and statements.
31. In the main, the changes were supported however, there were two key issues which gave cause for concern at the Council meeting. These are summarised below.
32. **Word limit** – 100 words (applies to both questions and statements) – There was no change proposed to the numerical number of words, however, the changes provided clarity to the definition of what constituted a word for the purposes of counting. There are no equality related issues relating to the number of words however, the Working Group reconsidered the word limit and supported an increase from 100 words to 150 words.
33. **Nominating others to read submissions** – The existing Constitution contains different provisions relating to who someone may nominate to read out their submission if they are unable to attend. The proposed changes sought to align these provisions.
34. The existing provisions relating to Public Questions (paragraph 13.4.7) is interpreted as permitting someone to nominate another person (but not an officer) to read their question. (See extract below).

13.4.7.	the person asking the question may attend the meeting to read out their question or nominate another person to read out the question on their behalf, and to hear the answer. If someone is unable to attend and fails to nominate someone to attend on their behalf, the question will not be read out, but will be responded to by way of written answer;
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35. Whereas the existing provisions relating to Public Statements (paragraph 13.5.6) permits someone to ask for an officer to read out their statement if they prefer but not another member of the public.

13.5.6.	the person making the statement shall normally attend the meeting to read out their statement. However, persons may, if they prefer, ask for an officer of the Council to read out their statement;
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36. In seeking to align the requirements, both of which permit the person making the submission to nominate someone else, the previous recommendation was that both provisions should be consistent and the preference was to align to the questions provision.
37. An Equality Impact Assessment has been completed which was informed by discussions with officers and the Working Group. Following further consideration, the Working Group are recommending that the nomination procedure rules be now extended to permit both another member of the public or an officer to be nominated. This is now reflected in the revised amendments for consideration.
38. The Working Group was mindful that the provisions relating to Public Participation were introduced by local authorities to actively encourage public attendance and engagement at physical meetings to supplement any pre-existing opportunities to make other representations. Whilst it is accepted that there may be legitimate limitations to access meetings for some members of the public, it has become increasingly common for officers to be requested to read out statements. The

Working Group wished to encourage public participation and requested that the operation of the procedures be monitored.

39. The proposed changes to Procedure Rules relating to Public Questions, Statements and Petitions, are set out in Rules 13.4 to 13.27.

#### **Public Questions**

~~13.3.~~13.4. Members of the public may ask questions at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for questions is as follows:

13.4.1. subject to the requirements of this Protocol, a member of the public who lives or works in the area of the Council may submit a written question to the Leader of the Council, a Portfolio Holder or the Chair of the Council or of a Committee of the Council;

~~13.3.1-13.4.2.~~ the person to whom the question is submitted shall respond to the question at the relevant meeting unless the matter is of such a specialist nature that it requires a response from the Head of Paid Service, Monitoring Officer or Section 151 Officer, or a specialist officer nominated by one of those officers

13.4.3. a person wishing to ask a question shall submit the question in writing which must be received by the Monitoring Officer or their nominated representative by mid-day three~~four~~ clear working days before the meeting at which it is to be asked. The person's name and address must be included. In calculating this period the date of the meeting and date of submission are to be excluded;

~~13.3.2-13.4.4.~~ where a report is not published five-clear days before the meeting, the deadline for the submission of questions, as defined in 13.4.3, shall be adjusted accordingly by the number of days that the publication of the report is delayed;

~~13.3.3-13.4.5.~~ a question at Council shall relate to Council business, shall not exceed ~~400~~150 words in length and shall be so framed as to elicit information rather than make a statement;

13.4.6. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the question is asked and shall not exceed ~~400~~150 words in length;

~~13.3.4-13.4.7.~~ for the avoidance of doubt, headings, abbreviations, acronymns and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;

13.4.8. at Full Council no member of the public may ask more than four questions in any one Municipal Year;

- ~~13.3.5-13.4.9.~~ no member of the public may ask more than one question on any individual item of business as defined on the agenda of the meeting;
- ~~13.3.6-13.4.10.~~ questions shall be provided to Councillors electronically prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon questions or answers;
- ~~13.3.2-13.4.4.~~ where a report is not published five-clear days before the meeting, the deadline for the submission of questions, as defined in 13.4.3, shall be adjusted accordingly by the number of days that the publication of the report is delayed;
- ~~13.3.3-13.4.5.~~ a question at Council shall relate to Council business, shall not exceed ~~400-150~~ words in length and shall be so framed as to elicit information rather than make a statement;
- 13.4.6. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the question is asked and shall not exceed ~~400-150~~ words in length;
- ~~13.3.4-13.4.7.~~ for the avoidance of doubt, headings, abbreviations, acronymns and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;
- 13.4.8. at Full Council no member of the public may ask more than four questions in any one Municipal Year;
- ~~13.3.5-13.4.9.~~ no member of the public may ask more than one question on any individual item of business as defined on the agenda of the meeting;
- ~~13.3.6-13.4.10.~~ questions shall be provided to Councillors electronically prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon questions or answers;
- ~~13.3.7-13.4.11.~~ the person asking the question may attend the meeting to read out their question, ~~or~~ nominate another member of the public ~~person~~ or, if they prefer, ask for an officer of the Council to read out the question on their behalf, and to hear the answer. If someone is unable to attend and fails to nominate someone to ~~attend~~ read out the question on their behalf, the question will not be read out, but will be responded to by way of written answer;
- ~~13.3.8-13.4.12.~~ if questions are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the question out of order;
- ~~13.3.9-13.4.13.~~ in exceptional cases members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a question in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the question in consultation with the appropriate Chair.



## Public Statements

~~13.4.13.5.~~ Members of the public may make statements at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for statements is as follows:

~~13.4.1-13.5.1.~~ subject to the requirements of this protocol, a member of the public who lives or works in the area of the Council may submit a written statement to the Council, Cabinet, Committee or a Sub-Committee of the Council;

~~13.4.2-13.5.2.~~ a person wishing to make a statement under this protocol shall submit the statement in writing which must be received by the Monitoring Officer or their nominated representative by midday the day before the meeting at which it is to be raised. The person's name and address must be included;

~~13.4.3-13.5.3.~~ a statement at Council shall relate to Council business and shall not exceed ~~400-150~~ words in length. At Full Council no member of the public may submit more than four statements in any one Municipal Year;

~~13.5.4.~~ a statement at Committee, Sub-Committee or Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the statement is made and shall not exceed ~~400-150~~ words in length;

~~13.5.5.~~ for the avoidance of doubt, headings, abbreviations, acronyms and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;

~~13.5.6.~~ at Full Council no member of the public may make more than four statements in any one Municipal Year;

~~13.4.4-13.5.7.~~ no member of the public may make more than one statement on any individual item of business as defined on the agenda of the meeting;

~~13.4.5-13.5.8.~~ statements shall be printed in order of receipt and circulated electronically to Councillors prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon statements;

~~13.4.6-13.5.9.~~ the person making the statement ~~shall normally may~~ attend the meeting to read out their statement, nominate another member of the public or, -However, persons may, if they prefer, ask for an officer of the Council to read out ~~their-the~~ statement on their behalf. If someone is unable to attend and fails to nominate someone to read out the statement on their behalf, the statement will not be read out;

~~13.4.7-13.5.10.~~ if statements are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the statement out of order;

~~13.4.8-13.5.11.~~ in exceptional cases, members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a statement in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the statement in consultation with the appropriate Chair.



## **Petitions**

~~13.5.~~13.6. Anyone who lives, works or studies in the Council's area may sign or organise a petition and trigger a response. This includes anyone under the age of 18. This petition scheme explains the rules that the Council will apply to any petition it receives.

~~13.6.~~13.7. Petitions submitted to the Council under this scheme must:

~~13.6.1.~~13.7.1. include a clear and concise statement covering the subject of the petition;

~~13.6.2.~~13.7.2. state what lawful action the petitioners wish the Council to take;

~~13.6.3.~~13.7.3. be signed by at least 20 people supporting the petition;

~~13.6.4.~~13.7.4. include the name and address (in a legible format) and signature of any person supporting the petition together with their connection with the Council's area (i.e., lives, works or studies); and

~~13.6.5.~~13.7.5. contact details, including name, address, telephone number (and where possible, an e-mail address) of the petition organiser.

~~13.7.~~13.8. The petition organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.

~~13.8.~~13.9. An electronic petition system is available on the Council's website.

~~13.9.~~13.10. If a petition does not include all of the information required by this scheme it may not be accepted by the Monitoring Officer. In that case, the Council will write to the petition organiser to explain the reasons why.

### **Petitions not included in this scheme**

~~13.10.~~13.11. The Council will not take action on any petition which the Monitoring Officer considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in the acknowledgement of the petition.

~~13.11.~~13.12. This petition scheme does not apply to:

~~13.11.1.~~13.12.1. any petition which is not about a matter for which the Council has a responsibility, or which affects its area;

~~13.11.2.~~13.12.2. any petition relating to a planning or licensing application or decision (which will be referred by the Monitoring Officer to the relevant officer/committee so that it can be considered in accordance with arrangements that the relevant committee has agreed);

~~13.11.3.~~13.12.3. a statutory petition (for example requesting a referendum);

~~13.11.4.~~13.12.4. a petition that is related to confidential staffing matters; or

~~13.11.5.~~13.12.5. a petition relating to a matter where there is already an existing recourse to a review or right of appeal, such as council tax banding and non-domestic rates, where other procedures apply.



~~13.12.~~13.13. In addition, any petition on the same or similar topic as one that the Council has received and dealt with in the previous six months is excluded.

~~13.13.~~13.14. Details of petitions affecting particular wards that have been excluded will be sent to the Councillors representing those wards.

~~13.14.~~13.15. In exceptional cases, members of the public who do not live, work or study in the Council's area but who are, nevertheless, affected by a decision or potential decision of the Council can submit a petition in accordance with this scheme and the Monitoring Officer will determine the relevance of such a petition in consultation with the Chair of Council or with the Chair of the appropriate Committee.

### **Guidelines for submitting a petition**

~~13.15.~~13.16. Petitions can be submitted in paper format or electronically through the Council's e-petition portal.

~~13.16.~~13.17. Paper petitions can be submitted to the Monitoring Officer at the main office of the Council.

~~13.17.~~13.18. The Council will accept e-petitions hosted by third parties which meet the requirements of this scheme, in particular those required by Rule 13.7 of this Part 4D.

~~13.18.~~13.19. If the appropriate threshold is met, petitions can also be presented to a meeting of the Council or its Committees or to the Cabinet. Where the threshold is met for debate at a meeting of Council the petition organiser should contact the Monitoring Officer at least 10 working days before the meeting.

### **How the Council will respond to a petition**

~~13.19.~~13.20. The Council will acknowledge receipt of a petition within 10 working days setting out what the Council plans to do with the petition. The acknowledgment will let the petition organiser know what the Council plans to do with the petition and when they can expect to hear from the Council again. The petition will be published on the Council's website, except in cases where this would be inappropriate. Where the subject matter of the petition affects particular wards, the Councillors representing those wards will be notified of the receipt of the petition.

~~13.20.~~13.21. If paragraph 13.13 applies to the petition, then the Council's acknowledgement will include details of any previous petition on the same topic. If the Council is still considering a petition on the same or similar topic, the acknowledgement will tell the petition organiser that the new petition has been amalgamated with the first petition.

~~13.21.~~13.22. The Council's response to a petition will depend on what a petition asks for, but may include one or more of the following:

~~13.21.1.~~13.22.1. taking the action requested in the petition;

~~13.21.2.~~13.22.2. considering the petition at a meeting of the Council or Cabinet;

~~13.21.3.~~13.22.3. holding an inquiry into the matter;

~~13.21.4.~~13.22.4. holding a public meeting;

~~13.21.5.~~13.22.5. holding a meeting with petitioners or the petition organiser;

~~13.21.6.~~13.22.6. undertaking research into the matter;

~~13.21.7-13.22.7.~~ writing to the petition organiser setting out the Council's views about the request in the petition;

~~13.21.8-13.22.8.~~ referring the petition to an Overview and Scrutiny Committee or another Committee of the Council for consideration;

~~13.21.9-13.22.9.~~ referring the petition, in the first instance, to another formal body of the Council where the subject matter of the petition falls within the scope of the terms of reference of that body.

~~13.22-13.23.~~ The Council's response may also depend on the number of people who have signed the petition. The table below sets out the thresholds:

Number of signatories	Response
20 – 49	Response from relevant director / service head (treated as standard correspondence)
50 – 1,999	Response from relevant Cabinet member
2,000 +	Referred for debate at a meeting of Full Council

~~13.23-13.24.~~ If the Council is able to do what a petition asks, the acknowledgement to the petition organiser may confirm that the Council has taken the action requested and the petition will be closed.

~~13.24-13.25.~~ Where the petition is referred to the relevant Cabinet member for a response, the petition organiser will be invited to make a written statement in support of the petition (if one has not already been included in the petition).

~~13.25-13.26.~~ If the petition has enough signatures to be referred to trigger a debate at a meeting of the Full Council, then the acknowledgment will confirm this and inform the petition organiser when and where the relevant meeting will take place. The Council will try to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.

~~13.26-13.27.~~ Where the petition is referred to the Full Council, the petition organiser (or any person authorised by them) will, if they so wish, be given a period not exceeding three minutes to present the petition at the meeting and unless the petition is referred to the Overview and Scrutiny Committee or another Committee or Sub-Committee for consideration without debate; the petition will be debated by members. Members may ask questions of the petition organiser. ~~The petition organiser (or any person authorised by them) will be granted a right of reply for a further period not exceeding three minutes at the end of the debate and before a final decision or vote is taken.~~

**40. It is RECOMMENDED that the amendments to Part 4D, Procedure Rules 13.4 to 13.27, as set out above, be approved.**

#### **Issue 6 – Standards Committee – Arrangements for Dealing with Code of Conduct Complaints**

41. The Standards Committee at its meeting on 17 January 2023 passed a resolution for the Constitution Review Working Group to consider an amendment to the arrangements for dealing with allegations of breach of the code of conduct for councillors, as set out in Part 6, Schedule 1 [pages 6-15 to 6-17].

42. The Standards Committee considered that the existing arrangements for councillors to provide a response to a complaint was insufficient and permitted subject councillors to repeatedly delay providing a response.
43. The Constitution Review Working Group considered the response and sought to strengthen the requirement for councillors to respond within a more reasonable time-period. Additional provisions are proposed to provide clarity as to the next steps where the subject Councillor is not compliant. The proposed amendment to the relevant provision is set out below.

#### **ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS**

- The Councillor must provide an initial response to the complaint, within five working-14 calendar days, or longer at the discretion of the Monitoring Officer, should then provide an initial response to the complaint. Failure to provide a response in this timeframe is likely to be considered a failure to cooperate with the investigation required under paragraph 8.2 of the Council's Code of Conduct. Unless exceptional circumstances exist which the Monitoring Officer considers justifying an extension of time, the complaint will be referred to the Chair for determination after the 14-day period regardless of whether or not a response has been received.

44. **It is RECOMMENDED that the amendments to Part 6, Schedule 1 (Arrangements for dealing with allegations of breach of the Code of Conduct for Councillors), as set out above, be approved.**

#### **Issue 7 – Access to documents- Overview and Scrutiny Committees – Referral by Council**

45. Full Council at meeting on 5 December 2022 referred the Constitution change relating to Rule 24 to Part 4A of the Constitution back to the Constitution Review Working Group for reconsideration.
46. Previously, the Working Group was advised that the right of the Chair, or in the absence of the Chair, the Vice-Chair of an Overview and Scrutiny Committee to see papers in relation to private decisions of the Cabinet before the decision is made should be subject to Part 4A Rule 24.5 [page 4-17].
47. Rule 24.5 provides that, where the Leader so determines, a member of the Overview and Scrutiny Committees will not be entitled to any document that is in draft form or to the advice of a political advisor.
48. Procedure Rule 24 is informed by Section 17 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The wording of Section 17 of these regulations does not reference documents in draft form and it is understandable how viewing these provisions alone could give rise to an interpretation that the status of a document is irrelevant.
49. However, UK legislation will often contain an 'Interpretation' section which defines the meaning of certain words. The 2012 Regulations contains such a section and in doing so defines the meaning of document as shown below.



### Interpretation

#### 2. In these Regulations—

“document” means any report or background papers, other than that only in a draft form, taken into consideration in relation to an executive decision;

50. The Council’s Constitution should not be at variance with primary legislation where such an anomaly exists should seek to rectify the matter.
51. As previously advised this anomaly was introduced inadvertently during a previous redrafting of the Constitution. The introduction of a new sub-heading resulted in these provisions becoming disjointed now requiring the cross-reference to provide clarity.
52. The proposed amendment seeks to remove the ambiguity and seeks to reflect the legislative provision which, as discussed above, takes precedence over the Constitution.

## 24. Access to documents - Overview and Scrutiny Committees

### Right to Copies of Documents

- 24.3. Subject to Rule 24.4 and 24.5 of this Part 4A the Chair, or in the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Cabinet before the decision is made.
- 24.4. Overview and Scrutiny Committee members will be entitled to any such document or part of a document that contains Exempt or Confidential Information unless the Monitoring Officer determines that the information is not relevant to an action or decision they are reviewing or scrutinising or any review contained in any programme of work of the Overview and Scrutiny Committees.

### Limits on Right to Copies

- 24.5. Where the Leader so determines, a member of the Overview and Scrutiny Committees will not be entitled to:
  - 24.5.1. any document that is in draft form; or
  - 24.5.2. the advice of a political advisor.

53. It is **RECOMMENDED** that the amendment to Part 4A, Procedure Rule 24.3, as set out above, be approved.

## Issue 8 – Planning Committee – Changes to and associated with delegations to the Planning Committee

54. The Working Group received a request to consider changes to the scheme of delegation to the Planning Committee as set out in Part 3A (Responsibility for Functions) [pages 3-7 to 3-9]. The Chair of Planning Committee was also in attendance at the meeting.
55. The suggested changes to the Constitution seek to address issues identified by officers and raised by Councillors in relation to delegations to the Planning Committee. The key focus of the changes is to provisions relating to the Councillor Call-In and the scope for matters being referred to Planning Committee resulting

from 20 representations. All proposed changes have been discussed with the Chairman of Planning Committee.

56. A brief summary of what might be regarded as the more significant changes is as follows:

- Proposed new paragraph 2.4 expressly recognises that any planning matter normally delegated to Officers can be taken to the Planning Committee for a decision where this is considered appropriate. A similar provision is proposed for Licensing Committee. This has the potential to be of significant value, enabling members of the Planning Committee to have the opportunity to engage with a wider range of case specific matters that are identified as potentially benefitting from Councillor input. This is similar to the request under 1(e) above which relates to the Licensing Committee delegations.
- The Councillor Call-In process is simplified by removing the specified need from the existing protocol for a Councillor to first discuss the intended referral with an officer (although this would not prevent them doing so if they wanted to). However, on the back of Councillor input, two key changes are suggested to the process. First, the Constitution will provide that a Councillor sitting on the Planning Committee cannot vote on an item that they call in but (subject to the Councillor Code of Conduct), can still speak to the matter in the same way as any other Councillor in accordance with the relevant speaking protocol (see proposed change to Meeting Procedure Rules). Second, the various actions that must be carried out by a Councillor in submitting a request for Call-In, including in the relevant request form, are more clearly set out. This now includes giving express confirmation in the submitted form that the Councillor has sought to notify all the ward Councillors in whose ward the application falls that they are making a call in request (see existing paragraphs 2.3.1 – 2.3.5 and new proposed paragraphs 2.5.1 and 2.5.2).
- In addition to the changes above, the proposed re-wording further consolidates other various existing provisions relating to the Councillor Call-In provisions (see existing paragraphs 2.2.9 and 2.3.6. and generally proposed new paragraph 2.6). This consolidation is not intended to materially change any of the existing provisions.
- The existing provision for the referral to committee for applications with 20 or more representations is removed (existing paragraph 2.2.8). It is anticipated that, coupled with the proposed changes to the Councillor Call-In process, that these changes may help encourage constituents to interact with their ward councillors and give greater prominence to the role that Councillors can have in helping develop their area.

57. The changes requested are as follows:

## **2. Planning Committee**

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the Planning Committee.
- 2.2. The Planning Committee has responsibility to determine the following:
  - 2.2.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;

- 2.2.2. applications submitted by or on behalf of a current Officer:
- a) working within the planning section; or
  - b) at Tier 3 level and above; or
  - c) direct family (spouse or civil partner) of Officers identified under 2.2.2 a) and b); or
- for any property or land in which they have a financial interest;
- 2.2.3. applications referred to the Committee by the relevant senior planning officer for one or more of the following reasons:
- a) applications where there are material planning issues that have not previously been considered within the Council's area;
  - b) applications where a national or local planning policy is being tested for the first time within the Council's area;
  - c) applications which have a significant impact on a wide number of businesses and / or people;
  - d) applications which have a finely balanced Officer recommendation;
  - e) applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils; and/or
  - f) applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest;
- 2.2.4. applications where the Council is the applicant or landowner for major development proposals as defined in the Development Management Procedures Order;
- 2.2.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;
- 2.2.6. applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;
- 2.2.7. an application which a Councillor requests should be referred to the Planning Committee ("Councillor Call-In") provided that all of the following criteria are met:
- a) in the opinion of the Councillor making the request, the application is (i) potentially contentious; and (ii) raises material planning issues that affect their ward or would affect the wider public interest; and
  - b) the request Councillor has submitted the referral to planning committee request in is in -accordance with the local planning authority's agreed call-in protocol (as set out at paragraphs 2.3-5 and 2.6 to this Part 3A); and
  - c) the Application is not one of the following:
    - i. Permission in Principle (PiPs)
    - ii. Lawful Development Certificates (LDC) (existing or proposed)
    - iii. Prior Approvals and Prior Notifications
    - iv. non-material amendments
    - v. applications other than "major", "minor" and "householder".and
- ~~2.2.8. applications where there have been 20 or more representations received within the initial or any subsequent notification period, based on material planning issues, from separate addresses that are contrary to the recommendation of the planning officer. The Head of Planning has the authority to make the decision as to whether the contrary representations are based on material planning issues.~~
- ~~2.2.9. With reference to Councillor call in powers at 2.2.7 above, a Councillor may make a request that an application be considered by Planning Committee conditional upon a recommendation to grant or refuse, or may make an unconditional request. A Councillor may also withdraw a request at any time up to seven calendar days before publication of the relevant Committee agenda. Any request should be made in writing on the form provided for the purpose.~~



2.3. The Planning Committee has power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.

2.4 In addition to the powers identified above, the Planning Committee has the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.

2.5 The requirements of the call-in protocol referred to at 2.2.7 above is/are as follows:

~~2.5.1. a formal referral request must be submitted on the Council Planning Committee referral form;~~

~~2.3.2. the request is submitted on the latest Planning Committee Referral Form all produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted planning Planning committee Committee referral Referral request form Form must have been completed. This includes setting out:~~

~~-for the request to be considered as valid and compliant with the provisions set out in paragraph 2.2.7 of Part 3A of the Constitution; a) why the application is considered to be potentially contentious;~~

~~b) 2.3.3. the form must set out planning the material planning reasons that the Councillor considers are material to the application that justify the referral;~~

~~c) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application would affect the wider public interest for the referral; and that warrant the application being considered by Planning Committee;~~

~~d) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and~~

~~2.3.4. the ward Councillor must have first discussed the planning application with the planning case officer before submitting a Planning Committee referral form. This discussion should take place within the initial planning application notification period. In these discussions, and prior to submitting the form, the ward Councillor must advise the officer whether they are considering submitting a Planning Committee referral request form so the officer can update the ward Councillor on progress before a recommendation is made.~~

~~2.5.2. to ensure resilience that the planning committee referral requests are formally received by the case officers, request forms should the completed Planning Committee Referral Form:~~

~~a) has been submitted by the Councillor making the request by email and received in the inbox of -be submitted by email to both the case officer and the relevant office inbox as follows:~~

~~ai) an application where the application site is wholly or partly in the former Bournemouth Council area -  
planning.bournemouth@bcpcouncil.gov.uk;~~

~~bii) an application where the application site is wholly or partly in the former Christchurch Council area -  
planning.christchurch@bcpcouncil.gov.uk;~~

~~ciii) an application where the application site is wholly or partly in the former Poole Council area planning.poole@bcpcouncil.gov.uk.~~

~~or any other inbox notified to Councillors for this specific purpose (N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and~~

- b) is received no later than 4pm of the last day of any initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

**2.6 With regard to the Councillor Call-In:**

- a) a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;
- a) a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.5.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and
- b)
- c) in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in paragraph 2.4 above) at any time thereafter be made by officers under delegated powers.
- ~~2.3.6. Once the notification period has expired and the officer has not had any contact from a ward Councillor in respect of a potential planning committee referral, Councillors are to be aware that officers are able to make decisions on planning applications under delegated powers in accordance with the Council scheme of delegation.~~

**Changes to Part 4D – Meeting Procedure Rules**

**Add new paragraph at the end of Section 18 – Voting**

- 18.9 Where an application falls to be determined by Planning Committee that is subject to the exercise of a Call-in power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by Planning Committee.**

**58. It is RECOMMENDED that the amendments to Part 3A, Responsibility for Functions – Planning Committee, and the new paragraph 18.9 to Part 4D, Meeting Procedure Rules - Voting, as set out above, be approved.**

**Summary of financial implications**

59. There are no financial implications arising from this report and the recommendations of the Working Group, however, attention is drawn to Issue 4 and the capacity constraints to support additional meetings.

**Summary of legal implications**

60. The Constitution of the BCP Council complies with relevant legislation. As identified in paragraph 13 some of the proposed changes are to give clarity as to the status of various existing and proposed protocols having regard to recent relevant case law.

**Summary of human resources implications**

61. There are no human resource implications arising from this report.

**Summary of sustainability impact**

62. There are no sustainability implications arising from this report.

### **Summary of public health implications**

63. There are no public health implications arising from this report.

### **Summary of equality implications**

64. An Equality Impact Assessment was completed which was informed by conversations with relevant officers and the Working Group in relation to each of the proposed changes to the Constitution.
65. Although the previous recommendations regarding public participation included provision for anyone submitting a question or statement to nominate another person to attend and read out their submission if they were unable to attend, it was acknowledged that this could have a direct impact on individuals with certain disabilities.
66. The recommendations have, as a direct consequence of those representations, been extended to allow anyone to nominate either another member of the public or an officer to read out their question or statement.

### **Summary of risk assessment**

67. The Constitution is a legally required document which prescribes the procedural and democratic arrangements for the proper governance of the Council.

### **Background papers**

Published works

### **Appendices**

There are no appendices to this report.