

CITY OF
WOLVERHAMPTON
COUNCIL

Governance and Ethics Committee Meeting

Friday, 25 March 2022

Dear Councillor

GOVERNANCE AND ETHICS COMMITTEE - FRIDAY, 25TH MARCH, 2022

I am now able to enclose, for consideration at next Friday, 25th March, 2022 meeting of the Governance and Ethics Committee, the following reports that were unavailable when the agenda was printed.

Agenda No	Item
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7	<u>Constitution Review (Pages 3 - 34)</u>
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[To consider the amendments to the Constitution].

8	<u>Annual Report on Code of Conduct Matters (Pages 35 - 44)</u>
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[To receive an update on Code of Conduct matters]

9	<u>Update from Monitoring Officer (Pages 45 - 52)</u>
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[To receive an update from the Monitoring Officer].

If you have any queries about this meeting, please contact the Democratic Services team:

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Report title	Changes to the Constitution	
Cabinet Member with lead responsibility	Councillor Paula Brookfield Cabinet Member for Governance and Equalities	
Wards affected	All Wards	
Accountable director	David Pattison, Chief Operating Officer	
Originating service	Democratic Services	
Accountable employee	Jaswinder Kaur	Democratic Services Manager
	Tel	01902 550320
	Email	jaswinder.kaur@wolverhampton.gov.uk
Report to be considered by	Council	6 April 2022

Recommendations for decision:

The Governance and Ethics Committee recommends that Council:

1. Approves the amendments to the Constitution as detailed in this report.
2. Authorises the Monitoring Officer to implement the changes.

1.0 Purpose

- 1.1 This report outlines the changes made to the constitution for approval by the Council. It is recommended that the Council agrees to the amendments to the Council's Constitution to ensure continuing lawfulness and effectiveness.

2.0 Background

- 2.1 The Governance and Ethics Committee regularly receives reports seeking to update the Constitution where it is necessary, the last such report was on 22 October 2021.
- 2.2 The changes being brought forward are following a full review of the Constitution.
- 2.3 The Constitution has been reviewed in totality and remodelled based on the model produced for local authorities by a national firm of solicitors, Bond Dickinson model. This is to ensure the constitution is clear and concise and that the decision-making processes can be followed by all.
- 2.4 Only those parts of the constitution listed below are amended, the other parts will remain unchanged.
- 2.5 This is part of a series of reports – there will be additional reports brought forwards to review the other parts of the constitution. This is an ongoing process and important that this takes place as and when the changes are needed. A further report will be brought forward shortly covering Part 3 delegations to officers, this is currently being updated.

3.0 Changes to the Constitution

- 3.1 The table below details the Articles/Sections to be changed:

Section	Proposed	Rationale
Part 4 – Full Council Procedure Rules	Motions on Notice, specify that motions on notice will be taken at ordinary meetings of the Council, except the AGM, Council Tax and Budget setting.	To reflect the practice of the Council and ensure it is captured within the constitution.
	Content and length of speeches, specify a mover of a amended motion may speak for 10 minutes.	To provide clarity on length of speech for an amended motion.
	Questions by Members of the Public, following agreement at a previous Council meeting introduce a protocol for	To allow citizens to have the right to participate in the Council's question time and to provide clarity on the procedure to be followed for

Section	Proposed	Rationale
	questions by members of the public. Amendment to rule 19.1 to include ensuring Councillors are respectful to each other	questions by members of the public. To ensure that there is respectful behaviour at meetings

4.0 Financial implications

4.1 There are no financial implications arising from the proposed amendments to the Constitution. [AS/24032022/A]

5.0 Legal implications

5.1 The Council is required by Section 37 of the Local Government Act 2000 to prepare and publish a Constitution which contains its standing orders relating to decision-making, finance and contracts. The Council is also required to keep its Constitution updated. The Director of Governance is authorised under the constitution to make amendments which more accurately reflect legislative and organisational changes. This report ensures that the Council meets its duties. [DP/24032022B]

6.0 Equalities implications

6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.2 The Constitution seeks to ensure that, in its decision-making and its operations, the Council fully complies with the public-sector equality duty.

7.0 Any other implications

7.1 There are no other implications arising from recommendations in this report.

8.0 Schedule of background papers

8.1 Changes to the Constitution, Governance Committee, 22 October 2021

9.0 Appendices

9.1 Appendix 1 - Part 4 – Full Council Procedure Rules

Full Council Meetings Procedure Rules

1.0 Annual Meetings of the Council

1.1 Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:

- a. elect a person to preside if the Mayor and the Deputy Mayor are not present;
- b. elect the Mayor of Council;
- c. elect the Deputy Mayor of Council;
- d. approve the minutes of the last meeting;
- e. give a vote of thanks to the retiring Mayor
- f. receive any announcements from the Mayor;
- g. receive a return of persons elected as Councillors
- h. elect the Leader of the Council; for a term of four years (unless removed or disqualified from office in accordance with the Constitution) if not already in post;
- i. following their election the duly elected Leader of the Council shall assume the full powers of the Leader and will appoint a Deputy Leader of the Council who, in their absence or following a vote of no confidence will act as Leader, and advise the Council of the members they intend to appoint to the Cabinet;
- j. appoint the Scrutiny Board and at least one Scrutiny Panel; a Governance and Ethics Committee and such other Regulatory or other Committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- k. appoint Councillor Champions;
- l. approve the scheme of delegation or such part of it as the Constitution determines it is for the Council to approve (as set out in Part 3);
- m. approve a programme of Ordinary Meetings of the Full Council, the Cabinet, the Scrutiny Board and Scrutiny Panels and Regulatory or other Committees for the year; and

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n. consider any business set out in the notice convening the meeting.

2.0 Selection of Councillors on Committees and Outside Bodies

2.1 At the Annual Meeting, the Council will:

- a. decide which committees and sub-committees to establish for the municipal year;
- b. decide the size and terms of reference for those Committees;
- c. decide the allocation of seats to political groups in accordance with the political balance rules;
- d. appoint Councillor Champions;
- e. appoint to the Scrutiny Board, Scrutiny Panels, Regulatory or other Committees and outside bodies except where appointment to those outside bodies has been delegated by the Full Council or is exercisable only by the Cabinet;
- f. appoint voting and non-voting co-opted members to the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees.
- g. appoint the Chairs and Vice-Chairs of Committees.
- h. appoint representatives to Outside Bodies unless the appointment is a Cabinet function or has been delegated by the Full Council;

(**Note:** Appointments will be based on the political composition of the Council if applicable to that committee or sub-committee. Every Councillor who is not a Cabinet Member shall serve on at least two Scrutiny Panels or two Regulatory or other Committees or on at least one of each such bodies. Appointment to the Scrutiny Board will count towards the requirement to sit on at least two bodies.)

3.0 Ordinary Meetings of the Council

3.1 Ordinary Meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary Meetings will:

- a. elect a person to preside if the Mayor and Deputy Mayor are not present;
- b. receive apologies for absence;
- c. approve the minutes of the last meeting;
- d. receive any declarations of interest from Councillors;
- e. receive any announcements from the Mayor;

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- f. receive a report from the Leader and receive questions and answers on the report, if there is any business to report;
- g. receive reports from the Cabinet, the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees and receive questions and answers on any of those reports;
- h. receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- i. receive questions and provide answers to Councillors (except at the Council Tax, Budget setting or Annual General meeting);
- j. receive any petitions in accordance with the Petitions Procedure Rules;
- k. consider motions; and consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Scrutiny Board and Scrutiny Panels for debate.

4.0 Extraordinary Meetings of the Council

4.1 Calling Extraordinary Meetings

Those listed below may request the Head of Paid Service to call Council meetings in addition to Ordinary Meetings:

- a. the Full Council by resolution;
- b. the Mayor, or if the office of Mayor is vacant, or if the Mayor is unable to act for any reason, the Deputy Mayor;
- c. the Leader;
- d. the Monitoring Officer; and
- e. any five Councillors if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition. A requisition may be presented to the Mayor by being left for him/her with the Head of Paid Service;
- f. the Head of Paid Service shall arrange for the additional meeting to be held within 21 days of the receipt of the request. If, after such a request has been made, and no meeting has been called within five days, the Councillors concerned shall inform the Head of Paid Service of their intention to call an extraordinary meeting of the Council, the business to be transacted and the date and time of the meeting.

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4.2 Business

The business to be transacted at an Extraordinary Meeting of the Council shall be only the business which is specified in the summons.

5.0 Time and Place of Meetings

5.1 The time and place of meetings will be determined by the Head of Paid Service in consultation with the person presiding and notified in the summons.

6.0 Notice of and Summons to Meetings

6.1 The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting he/she will send a summons to every Councillor. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7.0 Quorum

7.1 The quorum of a meeting will be one quarter of the whole number of Councillors. During any meeting if the person presiding counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn for fifteen minutes. If after that period, there is still not a quorum present the meeting will end. Remaining business will be considered at a time and date fixed by the person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8.0 Duration of Meetings

8.1 Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for 3½ hours will adjourn immediately. A motion to continue the meeting shall be moved immediately before or immediately after the expiration of 3½ hours and before the person presiding declares the meeting closed. Remaining business will be considered at a time and date fixed by the person presiding. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. Provided that this shall not prevent:

- a. statutory or other business which by law must be transacted at any such meeting;
- b. the transaction of unopposed business, that is to say, business which can be transacted without the making of any speeches by any Councillor other than proposing and seconding of the necessary motions. If any Councillor indicates that he/she wishes to speak thereon, the business shall not be regarded as unopposed, but the person presiding shall rule it as standing adjourned.

9.0 Vote of No Confidence in The Leader of The Council

- 9.1 Any motion of no confidence in the Leader of the Council must be received by the Chief Executive by no later than 10 clear working days before the meeting of the Council to which it is to be submitted. The motion must be signed by at least 15 Councillors of the Council and must set out the reasons why the signatories have concluded that a vote of no confidence in the Leader is required. Any motion under this rule is subject to the provisions in Rule 12.
- 9.2 The motion will be listed first on the agenda.
- 9.3 No amendments to a motion calling for a vote of no-confidence motion in the Leader of the Council will be allowed.
- 9.4 Each Councillor present at the time will have one vote.
- 9.5 Voting will be by way of a roll call recorded in the minutes.
- 9.6 In order to carry the motion, at least two thirds overall majority of those Councillors present will be required.
- 9.7 In the event of the motion being carried, the Deputy Leader of the Council will assume the full powers of the Leader of the Council until a new Leader of the Council is appointed by the Council.
- 9.8 It should be noted that the ways in which the role of Leader is vacated are set out in article 6 of Part 2 of the constitution – including where there is a change in political control of the authority.

10.0 Report of The Leader of The Council

- 10.1 The Leader of the Council shall at each ordinary meeting of the Council submit a report on the work of the Cabinet and shall be open to question thereon, the Leader may invite any other member of the Cabinet to speak on the report during the report.
- 10.2 The Leader of the Council may invite (a) representative(s) of a partner organisation(s) to address the Council in respect of any matters referred to in the Leader's report relating to partnership working between the Council and the organisation(s).
- 10.3 A member of the Council may, at the discretion of the Mayor, ask the Leader of the Council a question relating to a matter referred to in the Leader's report to Council and may, after having the response from the Leader (or at the Leader's discretion the relevant Cabinet Member, or representative of a partner organisation) ask one supplementary question on the point of the original question.
- 10.4 A member of the Council may question the Leader once (with the provision for a supplementary question) on each item in the Leader's report.

- 10.5 An answer by the Leader of the Council may take the form of:
- a. a direct oral answer by the Leader of the Council;
 - b. a direct oral answer by a Cabinet Member with responsibility for the matter subject to question;
 - c. a direct oral answer from a representative of a partner organisation invited by the Leader of the Council to respond;
 - d. where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - e. where the reply cannot conveniently be given orally, a written answer circulated to the questioner.

11.0 Questions by Councillors

- 11.1 At ordinary meetings of the Council, except the Council Tax, Budget setting meeting and Annual General Meeting, there will be Questions by Councillors.
- 11.2 All questions at the Council meeting must relate to the Council's powers or matters that affect the City. Questions will be put and answered without debate. The question must specify the relevant Councillor who is being asked to respond. In the case of any doubt the Monitoring Officer will decide the appropriate Councillor to respond.
- 11.3 The Monitoring Officer has the power to reject questions for the following reasons if it:
- a. does not relate to a matter about which the Council has a responsibility or which affects the Council;
 - b. is defamatory, frivolous or offensive;
 - c. is substantially the same as a question which has been put at a meeting of the Council in the past 6 months;
 - d. requires disclosure of confidential or exempt information;
 - e. relates to a specific planning or licensing application; and/or
 - f. is a matter subject to litigation or could place the Council at risk of litigation.
- 11.4 Councillors may ask questions at each Council meeting, which may be directed to:
- The Leader;
 - A Cabinet Member;
 - The Chair of Scrutiny Board/Scrutiny Panel;
 - A Statutory Committee Chair;
 - A Councillor appointed to an outside bodies.

11.5 Number of questions

Any Councillor may ask no more than one question at a meeting of the Full Council. The Leader of the Council and the leader of the main opposition group on the Council, if any, may ask more than one question at a meeting of the Full Council.

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11.6 Notice of questions

A Councillor may only ask a question if either:

- a. they have given at least seven clear working days' notice in writing of the question to the Head of Paid Service or
- b. the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Head of Paid Service three hours before the start of the meeting.

11.7 Order of Questions

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.

11.8 Response

An answer may take the form of:

- a. a direct oral answer by the person to whom the question was put or some other Councillor nominated by him/her;
- b. where the desired information is in a publication of the Council or other published work, a reference to that publication, or
- c. where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.9 Supplementary question

A Councillor asking a question may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must relate to the subject matter of the written question. The answer to a supplementary question should preferably be given orally at the meeting. Written responses will be permitted if research is required, or the information is not immediately available, and should be circulated to all Councillors by email within 12 working days of the Council meeting.

11.10 Councillor not present

If the Councillor to whom the question has been addressed is not present at the Council meeting, another Councillor may answer the question and any supplementary question in their place. If the Councillor asking the question is absent, they may nominate another Councillor to ask the question and a supplementary question.

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11.11 Length of Speeches

A Councillor asking a question under Rule 11.4 and a Councillor answering such a question may speak for no longer than 5 minutes unless the Mayor consents to a longer period.

12.0 Motions on Notice

12.1 -At ordinary meetings of the Council, except the Council Tax, Budget setting meeting and Annual General Meeting, there will be Motions by Councillors.

12.2 Every motion shall relate to the Council's powers or duties, or an issue that affects the City. with the exception of those motions which may be moved without notice, written notice of every motion, signed by at least one Councillor, must be delivered to the Head of Paid Service not later than seven clear working days before the date of the meeting.

12.~~32~~ Motions set out on Agenda

- a. Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Councillor giving notice states, in writing, that he/she withdraws it.
- b. A motion shall only be moved by the Councillor by whom notice has been given or by a Councillor authorised in writing by that Councillor.

12.~~43~~ The Monitoring Officer has the power to reject motions for the following reasons if it:

- a. Does not relate to a matter about which the local authority has powers or duties, or which significantly affects the city;
- b. Is substantially the same as a question which has been put at a meeting of the Council in the past 6 months;
- c. Requires disclosure of confidential or exempt information;
- d. Relates to a specific planning or licensing application; and/or
- e. Is a matter subject to litigation or could place the Council at risk of litigation.

12.~~54~~ Number of motions

No Councillor may give notice of more than one motion for any Council meeting, except with the consent of the Mayor.

13.0 Motions without Notice

13.1 The following motions may be moved without notice:

- a. to appoint a person to preside at the meeting at which the motion is moved;

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- b. in relation to the accuracy of the minutes;
- c. to change the order of business in the agenda;
- d. to refer something to an appropriate body or individual;
- e. to receive reports or adoption of recommendations of the Scrutiny Board or Scrutiny Panels or Regulatory and other Committees or employees and any resolutions following from them;
- f. to withdraw a motion;
- g. to amend a motion;
- h. to proceed to the next business;
- i. that the question be now put;
- j. to adjourn a debate;
- k. to adjourn a meeting;
- l. that the meeting continue beyond 3½ hours in duration;
- m. to suspend a particular Council Procedure Rule;
- n. to exclude the public and press in accordance with the Access to Information Procedure Rules;
- o. to not hear further a Councillor named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4; and
- p. to give the consent of the Council where its consent is required by the Constitution.

Questions by Members of the Public

At each Ordinary Meeting of the Council other than

- Annual Meeting
- Budget Council Meeting

A period of up to 15 minutes shall be available to allow questions that have been submitted by members of the public who live, work or study in the City, to be asked of the Leader of the Council or a Cabinet Member a question on any issue which comes within that individual's area of responsibility and which affects the area of Wolverhampton and for the relevant Member to respond.

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Any person who wishes to ask a question shall give written notice of the question to the Monitoring Officer by noon on the seventh working day prior to the meeting. Each question must give the name and address of the questioner.

The Monitoring Officer has the power to reject questions for the following reasons if it:

- a. does not relate to a matter about which the Council has a responsibility or which affects the Council;
- b. is defamatory, frivolous or offensive;
- c. is substantially the same as a question which has been put at a meeting of the Council in the past 6 months;
- d. requires disclosure of confidential or exempt information;
- e. Questions relating to complaints made under statutory provisions which have not been finally dealt with.
- f. relates to a specific planning or licensing application; and/or
- g. is a matter subject to litigation or could place the Council at risk of litigation.

No question will exceed 1 minute and no answer will exceed 2 minutes.

Members of the public may ask questions as set out in the order of business and in accordance with these rules of procedure.

Time Allowed for Questions

The period allowed for the asking and answering of public questions at any one meeting shall not exceed 15 minutes. At any one meeting no person may ask more than one question and no more than one question may be asked on behalf of one organisation. A questioner may also put one supplementary question to the Member for each original question asked. Any question which cannot be dealt with during public question time will be dealt with by a written answer.

Answers to Questions

The Member to whom the question has been put may nominate another Member to answer (if that Member agrees).

An answer may take the form of:

- (a) a direct oral answer; or
- (b) a reference to a publication, where the desired information is contained in a publication of the Council, the Cabinet or a Committee, Sub-Committee or Panel; or
- (c) a written answer where the reply to the question cannot conveniently be given orally.

Recording in Minutes

(7) Democratic Services shall record in the Minutes of the meeting the question(s) asked and the name of the respondent.

Questions Ruled Out of Order

(8) If the Chair is of the opinion that the question is of a personal nature, or that in the interests of the Council it is undesirable or is otherwise out of order, they shall not allow the question to be put.

Referral of Subject Matter

(9) In the case of public questions presented to Council meetings, there shall be no discussion on the question or the answer.

14.0 Rules of Debate

14.1 The diagram set out overleaf outlines the process for consideration of a motion, whether that motion be moved with or without notice.

14.2 The Mayor, subject to the rules of the Constitution, shall call any Councillor to speak who has indicated their wish to do so, providing this is compatible with the agenda timing.

14.3 No speeches until motion seconded

No speeches may be made until a Councillor has moved a motion, explained its purpose and the motion has been seconded.

14.4 Right to require motion in writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to them and the relevant Councillor before it is discussed.

14.5 Secunder's speech

When seconding a motion or amendment, a Councillor may reserve their speech until later in the debate.

14.6 Content and length of speeches

Speeches must be directed to the question under discussion or to a point of order or a personal explanation.

The mover of a motion or amended motion may speak for ten minutes. No subsequent speech may exceed five minutes without the consent of the person presiding.

14.7 Content and length of speeches: setting the budget or revised budget

At a meeting at which the annual budget is set (or a revised budget proposed), the principal speeches and responses of the leader of each Political Group, or

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their nominated representative, shall not be time limited. All other speeches will be limited as detailed in paragraph 12.4. The group leader, or their nominated representative, will normally be the first person to speak from each group, and each group leader shall be entitled to be called before any other Councillor speaks. The Leader of the Council will normally propose the budget and, once it has been seconded, the other group leaders will be called in order of precedence according to the number of Councillors in each group. As with other Council meetings, the exact length of speeches and management of the debate is at the discretion of the person presiding.

14.8 When a Councillor may speak again

A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- a. to speak once on an amendment moved by another Councillor;
- b. to move a further amendment if the motion has been amended since they last spoke;
- c. if their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d. in exercise of a right of reply under
- e. on a point of order or a personal explanation of information where a Councillor wishes to put forward a factual correction.

14.9 Amendments to motions

An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words;

as long as the effect of (ii) to (iv) is not to negate the motion or recommendation being considered.

- b. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c. If an amendment is not carried, other amendments to the original motion may be moved.

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In the absence of any such subsequent amendments, debate on the original motion will proceed.

- d. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e. After an amendment has been carried, the person presiding will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.10 Alteration of motion

- a. A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b. A Councillor may alter a motion which he/she has moved without notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- c. Only alterations which could be made as an amendment may be made.

14.11 Withdrawal of motion

A Councillor may withdraw a motion which they have moved with the consent of the meeting. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it, unless permission is refused.

14.12 Right of reply

- a. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- c. The mover of the amendment has no right of reply to the debate on their amendment.
- d. A right of reply having been exercised, the question shall immediately be put to the meeting by the Mayor.

14.13 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions to:

- a. withdraw a motion;

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- b. amend a motion;
- c. to proceed to the next business;
- d. request that the question be now put;
- e. adjourn a debate;
- f. adjourn a meeting;
- g. that the meeting continue beyond 3½ hours in duration;
- h. exclude the public and press in accordance with the Access to Information Procedure Rules; and
- i. not hear further a Councillor named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4.

14.14 Closure motions

- a. A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- b. If a motion to proceed to next business is seconded and the person presiding agrees the item has been sufficiently discussed, they will then put the procedural motion to the vote.
- c. If a motion that the question be now put is seconded and the person presiding agrees the item has been sufficiently discussed, they she will put the procedural motion to the vote. If it is passed they will put the motion to vote.
- d. If a motion to adjourn the debate or to adjourn the meeting is seconded and the person presiding agrees the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote.

14.15 Council Tax/Budget Debate Process

- a. The proposer of the recommendation will move the budget. This speech will not be time limited.
- b. This will be seconded and the seconder will speak or reserve the right to speak.

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- c. The Leader of the Main Opposition Group (or nominated speaker) will move any amendment to the recommendation. This speech will not be time limited.
- d. The Deputy Leader of the Main Opposition Group (or nominated speaker) will second the amendment and speak or reserve the right to speak.
- e. The debate on the amendment will take place; the vote on the amendment will take place and the amendment will be carried or lost. If carried, this would become the substantive motion.
- f. The Leader of the largest of the minority Groups (or nominated speaker) will move any amendment to the motion. This speech will not be time limited.
- g. A representative of that Group will second the amendment and speak or reserve the right to speak.
- h. As (e) above.
- i. The Leader (or nominated speaker) of any of the remaining minority Groups will move any amendment (in the order in which they catch the eye of the Mayor). These speeches will not be time limited. Representatives of those Groups will second the amendment and speak or reserve the right to speak. This will apply to any remaining minority Groups.
- j. As (e) above.
- k. Any further amendments will be moved in the order in which the proposer catches the eye of the Mayor.
- l. When there are no more amendments, the debate on the substantive motion takes place and the vote is taken.

- (Notes:**
- 1. In accordance with the Council Procedure Rules, the mover of the original motion (or substantive motions if the original motion is amended) is entitled to speak on any amendment immediately before the reply by the mover of the amendment.
 - 2. Should adjournments be necessary during the course of the meeting, relevant arrangements will be made available.
 - 3. If the proposer of the recommendation is not the Leader of the Council, then the Leader of the Council will be given one opportunity for a speech that is not time-limited.
 - 4. Procedure Rule 18.5 shall apply to any vote taken on any motion, amendment or substantive motion relating to the approval of the budget or setting of council tax.)

14.16 Point of order

A Councillor may only raise a point of order at any point and it must be heard immediately. A point of order must relate to an alleged breach of these Council Rules of Procedure or the law. The Councillor must indicate the rule or law and the way in which they consider it has been broken. The Councillor's speech will be limited to one minute, with any additional time to be agreed at the discretion of the person presiding. The ruling of the person presiding on the matter will be final.

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14.17 Personal explanation

A Councillor may only make a point of personal explanation at the end of the speech to which it relates. A personal explanation may only relate to some material part of the earlier speech by the Councillor, which may appear to have been misunderstood in the present debate. The Councillor's speech will be limited to one minute, with any additional time to be agreed at the discretion of the person presiding. The ruling of the person presiding on the admissibility of a personal explanation will be final. If the personal explanation takes place after another Councillor's right of reply at the end of a debate the Councillor with the right of reply will be given the opportunity to confirm whether they have anything to add to their right of reply.

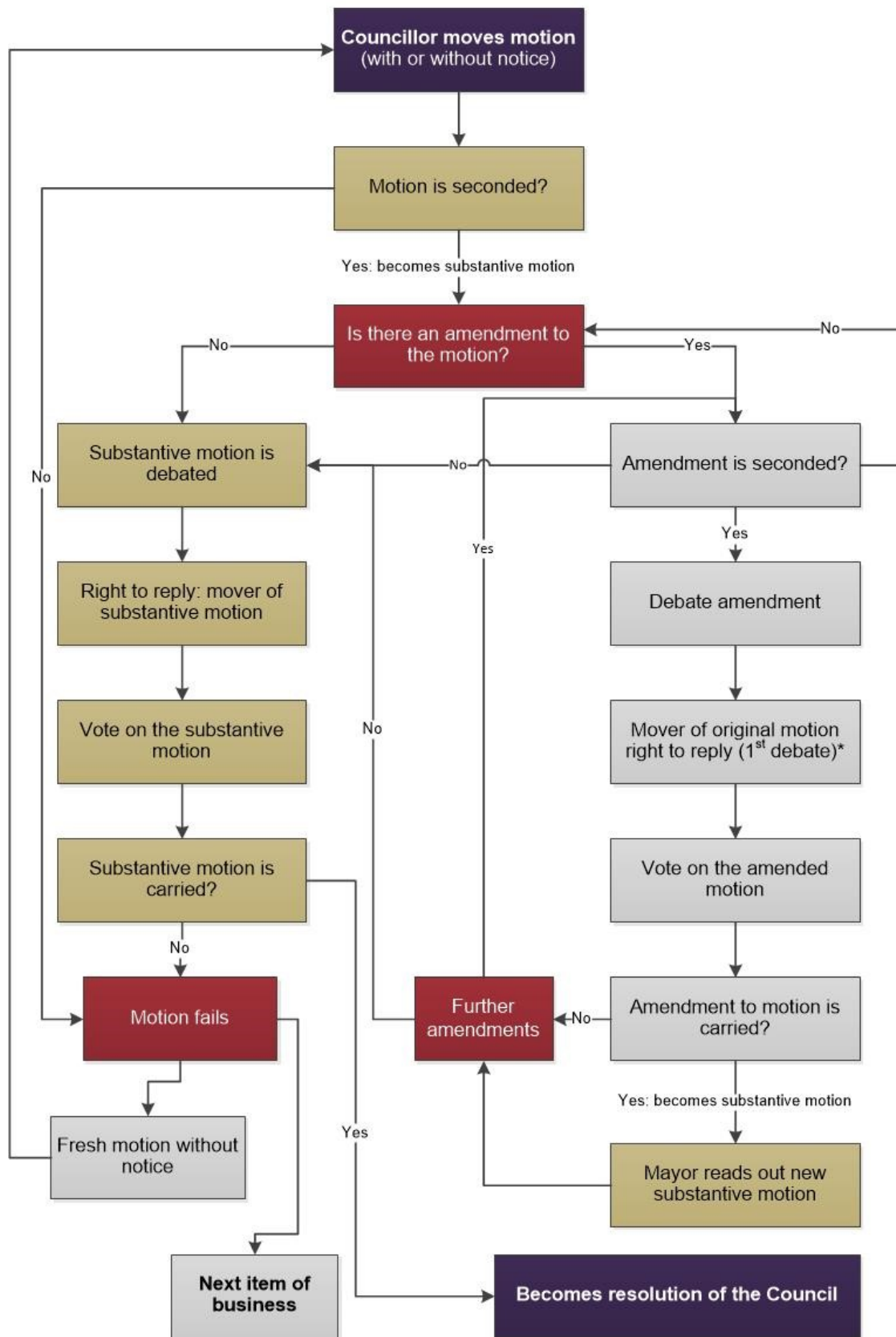
14.18 Attendance at another body

A Councillor who is not otherwise entitled to speak at a body may so attend and speak (but not vote) during consideration of any item which he/she has moved or seconded at Council and which has been referred to that body.

14.19 Previous Decisions and Motions

Except on the recommendation of the Cabinet, the Scrutiny Board or a Scrutiny Panel or a Regulatory or other Committee, no matter which has been decided by the Full Council on a motion or otherwise shall again be submitted to the Full Council for further consideration until after the next annual meeting; and when any matter shall be so prohibited from being considered, the effect of this Rule shall not be evaded by substituting any motion differently worded but substantially the same in effect or in principle, and if any such attempt be made, the person presiding shall rule it out of order.

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Version considered by Governance and Ethics Committee 25 March 2022
Process for consideration of Motions at Council



*Mover of the amendment has no right to reply

15.0 Voting

15.1 Majority

Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present at the time the question was put. Only those Councillors who have been present for the entirety of the debate on the item in question are entitled to vote.

15.2 Casting vote of person presiding

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise this vote.

15.3 Recorded vote

If ten Councillors present at a meeting of the Council or one third of the Councillors present at a meeting of the Scrutiny Board or a Scrutiny Panel or a Regulatory or other Committee demand it, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes.

15.4 Right to require individual vote to be recorded

Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

15.5 Voting on appointments

If there are two or more Councillors nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

15.6 Voting on the Council's budget

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a record will be made in the minutes of the meeting of the names of the persons who cast a vote for or against the decision or who abstained from voting, where that vote is in relation to the setting of the Council's budget or revised budget.

16.0 Minutes

16.1 Minutes must be kept to record all the decisions taken by meetings of the Council, its Committees and Sub-Committees. Minutes must also include a record of the names of all the Councillors present.

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16.1 Signing the minutes

The person presiding will sign the minutes of the Council Meeting at the next suitable meeting. The person presiding will move that the minutes of the previous meeting be signed as a correct record. Only points of accuracy can be discussed.

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the 1972 Act (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of Paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes of the Local Authority (Standing Orders) Regulations 1993..

16.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the person presiding put them.

17.0 Record of Attendance

17.1 A record will be made of all Councillors present during the whole or part of a meeting.

18.0 Exclusion of Public

18.1 Every effort will be made to have the decisions made in the open part of the meeting with reports being split into open and confidential or exempt parts.

18.2 Members of the public and press may only be excluded from the meeting either in accordance with the Access to Information Rules in Part 4 of the Constitution.

18.3 The specific reason for excluding the press and public will be set out on the agenda (if in accordance with the Access to Information Procedure Rules) and recorded in the minutes.

19.0 Councillors' Conduct

19.1 No Councillor shall impute unworthy motives to or use offensive or unbecoming words about another Councillor, fail to show respect to another Councillor or be guilty of tedious repetition. If this occurs the person presiding shall immediately stop the Councillor and if repeated the Councillor will not be heard any further. The Monitoring Officer as the person responsible for ensuring that the Authority acts lawfully shall ensure that this rule is complied with.

19.2 Disclosable Pecuniary Interests

Any Councillor who has a Disclosable Pecuniary Interest in any business being considered at a Council meeting must declare that item and leave the room where the meeting is being held whenever it becomes apparent that the business is being or is about to be considered at that meeting, unless the Councillor has obtained a dispensation under the Council's dispensation procedure.

19.3 Standing to speak

When a Councillor speaks at a Council meeting, they must stand unless unable to do so and address the meeting through the person presiding. If more than one Councillor stands, the person presiding will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a personal explanation.

19.4 Person presiding standing

When the person presiding stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must then be silent.

19.5 Councillor not to be heard further

If a Councillor persistently disregards the ruling of the person presiding by behaving improperly or offensively or deliberately obstructs business, the person presiding may direct that the Councillor be not heard further.

19.6 Councillor to leave the meeting

If the Councillor continues to behave improperly after such a direction, the person presiding may direct that either the Councillor leaves the meeting or that the Councillor be removed from the meeting or that the meeting is adjourned for a specified period.

19.7 General disturbance

If there is a general disturbance making orderly business impossible, the person presiding may adjourn the meeting for as long as he/she thinks necessary.

20.0 Disturbance by Members of the Public

20.1 Removal of members of the public

If a group or an individual member(s) of the public interrupts the proceedings at any meeting, the person presiding will warn the person(s) concerned. If the interruption continues, the person presiding will order their removal from the meeting room.

20.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public or of the premises where the meeting is being held, the person presiding shall order that part to be cleared. If, in the Mayor's view, this is not practicable and it is not possible to continue the meeting in light of the disturbance, the Mayor may rule that the meeting adjourn and/or that the meeting should be reconvened in a different venue.

21.0 Suspension and Amendment of Council Procedure Rules

21.1 Suspension

All of these Council Procedure Rules except Rule 14 and 15.2 above may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting. This Rule will apply to meetings of the Cabinet, the Scrutiny Board, Scrutiny Panels and Regulatory or other Committees provided that one half of the whole number of voting Councillors are present.

21.2 Amendment

These Council Procedure Rules may only be amended by the Full Council after consideration by the Monitoring Officer, the Constitution Review Group and the Governance Committee.

22.3 Application to Committees and Sub-Committees

All of the Council Rules of Procedure apply to meetings of full Council but not to Cabinet meetings. Rules 5-8, 13 - 23 and will also apply to meetings of committees and sub-committees.

23.0 Cancellation of meeting

23.1 The Chair may cancel a meeting before the agenda has been issued if there is a lack of business for the meeting in question. Any decision to cancel a meeting should be taken at the earliest opportunity and every effort should be made to publicise the cancellation. In exceptional circumstances, where the agenda for a meeting has already been issued, the meeting may be cancelled or postponed by the Chair following consultation with other Members of the committee. If the meeting is postponed, where possible no less than five clear working days' notice shall be given of the new date for the meeting.

24.0 Party Leaders

24.1 Each party represented on the Council shall notify the Monitoring Officer of the name of the person selected as that party's leader and the names of all other members of that party group.

25.0 Council Seating Plan

25.1 Councillors will be allocated designated places within the Council Chamber during Council Meetings. This seating plan must be adhered to at all times unless prior agreement is reached with the respective party whip and this is notified to the Mayor and the Monitoring Officer prior to the meeting.

26.0 Interpretation of Rules

26.1 The ruling of the Mayor as to the construction or application of any of these rules shall not further be challenged at any meeting of the Council.

27.0 Approach to dealing with petitions at Council Meetings

- a. Where a Petition contains more than 5,000+ signatures, the Council's Constitution provides for the matter to be debated by Full Council.
- b. Full Council will endeavour to consider the Petition at its next scheduled meeting, although on some occasions this may not be possible and consideration will then take place at the following scheduled meeting.
- c. The relevant Cabinet Member, or nominated substitute, will be in attendance at the Full Council meeting.
- d. The lead Petitioners will be given up to five minutes to present the Petition. The Petition will then be considered by Councillors for a maximum of a further 40 minutes, of which up to five minutes will be specifically allocated to the Cabinet Member for their response. Broad timings are detailed in the diagram at the end of this section but they are provided as guidelines – management of the debate is ultimately at the Mayor's discretion.

27.1 Detailed procedure

- (i) Democratic Services will have already invited representatives of the Petitioners (lead Petitioner and a further Petitioner to be referred to as the Second Petitioner) to attend the meeting and to give oral evidence to Full Council. Petitioners may also provide written evidence in support of their Petition. Full Council's role is to ensure that appropriate action is taken in respect of each admissible Petition.
- (ii) A report on the details of the Petition, including background details and comments from the appropriate service, will have been circulated to Councillors, as part of their Council papers, together with a copy of the Petition; a copy of the report will also have been provided to the lead and second Petitioners.
- (iii) Petitioners may nominate someone else, including a Councillor, to speak and present the Petition on their behalf. In the absence of the Petitioners, or

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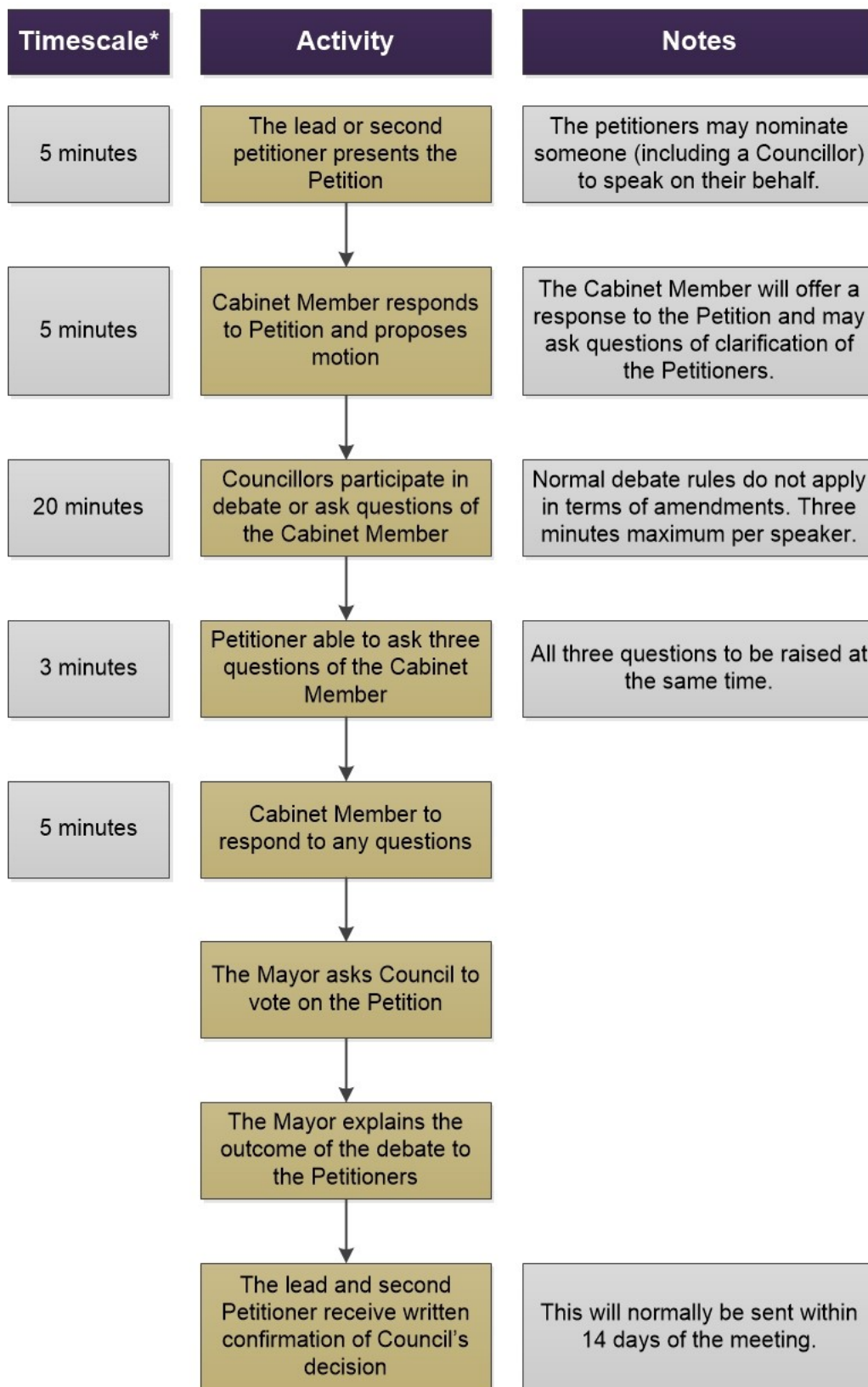
a representative to speak on their behalf, Council will consider the matter anyway in accordance with this process.

- (iv) Where Petitioners are present, the lead and second Petitioners will be seated near to the public gallery. At the appropriate juncture, the lead and second Petitioners will be shown to a seat at the front of the Council Chamber.
- (v) The Petition will be considered as the first item of substantive business following consideration of formal Council business i.e. following consideration of Apologies for Absence, Declarations of Interest, Minutes and Mayor's Communications.
- (vi) The Mayor will announce that the Petition will be considered as the next item of business, upon which a time limit of 45 minutes shall apply. This time limit includes five minutes for the lead or second Petitioner, but not both, to present the Petition.
- (vii) The Mayor will invite the relevant Cabinet Member to respond to the Petition and propose a motion in light of the Petition for Council to consider. The Cabinet Member has up to five minutes for their response, including proposal of a motion. The motion should be based upon one of the four options open to the Council for its response to a Petition:
 - a. decide to take the action the Petition requests
 - b. decide not to take the action requested
 - c. decide to commission further investigation into the matter, for example by a relevant Cabinet meeting, or
 - d. where the issue is one on which the Cabinet is required to make the final decision, Council must decide whether to make recommendations to Cabinet to inform that decision.
- (viii) The Mayor will ask if there is a seconder for the motion.
- (ix) The Mayor will invite Councillors to debate the motion, which may include asking questions of the Cabinet Member. Normal rules of debate with regard to amendments are suspended during consideration of a Petition. Any speaker is limited to a maximum of three minutes.
- (x) At the conclusion of the general debate, the Mayor will ask the lead or second Petitioners to ask up to three questions of the Cabinet Member. The questions must all be raised at the same time.

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- (xi) The Cabinet Member will have up to five minutes to respond to any questions raised. The Cabinet Member may recommend an amendment to their original motion based on the debate and consideration of the issues.
- (xii) At the conclusion of consideration of the item, the Mayor will ask Council to vote on the motion proposed by the Cabinet Member. In the event that the motion is not passed, an alternative motion will be proposed and seconded, based on the options detailed in (vii) above. Votes on a second or any subsequent motion will be taken immediately without any further debate.
- (xiii) Following approval of a motion, the Mayor will explain the outcome of the debate to the Petitioners and thank them for their attendance. At this point the lead and second Petitioners will be asked if they wish to either leave the meeting or, if not, return to their seats in the public gallery.
- (xiv) The lead and second Petitioners will receive written confirmation of Full Council's decision. This confirmation will also be published on the Council's website.

Petitions protocol flow diagram



*Timings are provided as a guide. Exact timings are at the Mayor's discretion.

28.0 Protocol Governing the use of the Mayor's Casting Vote

Introduction

The Local Government Act 1972 provides that the Mayor has a second or casting vote at Council Meetings in two specific circumstances.

- a. The out-going Mayor **must** exercise a second or casting vote if there is a tie for the election of a new Mayor (Section 23 Local Government Act 1972).
- b. On all other occasions the Mayor **may** (but is not obliged) to exercise a second or casting vote (Local Government Act 1972 Schedule 12 Para 39(2)).

Under revised arrangements for the rotation of the Mayoralty adopted at the Annual Council Meeting in May 2001 there should be no call to exercise a second or casting vote on the election of a new Mayor. The vote should be unopposed.

A tied vote at a Council Meeting in any other circumstances requires a clear and binding protocol governing the discretionary use of the second or casting vote which is –

- a. Based upon the principles set out in the Leader's speech to the Annual Council Meeting in May 2001 which established the arrangements for the rotation of the offices of Mayor and Deputy Mayor.
- b. Strongly endorsed by the Leaders of all three political parties on City of Wolverhampton Council on behalf of their groups and their nominees for the office of Mayor or Deputy Mayor.
- c. Accepted as an essential pre-requisite of office by all Councillors who are nominated for and appointed to the office of Mayor or Deputy Mayor.

Protocol

It is the duty of the Cabinet to make decisions. It is also in the interests of the City that there is certainty of decision making.

In the event of a tied vote at a Council Meeting the Mayor [or in their absence the Deputy Mayor] shall not exercise the second or casting vote unless advised by the Chief Executive; Section 151 Officer [as S151 Officer] or Chief Operating Officer that it is necessary to do so.

In order to preserve the impartiality and dignity of the Office of Mayor whenever a vote is tied the Mayor shall obtain appropriate advice (if necessary by seeking a short adjournment) from the Chief Executive; Section 151 Officer [as S.151 Officer] or Chief Operating Officer:

- a. Whether it is necessary to use a second or casting vote.

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b. If it is so necessary, how it should be done.

On receipt of that advice the Mayor will reconvene the meeting, if adjourned, and inform the Council of the advice that has been received. The Mayor will then vote in accordance with that advice exercising one of the four options identified in the schedule attached to this protocol.

ADVICE	ACTION	CONSEQUENCE
Only one decision is permissible for the Council to act lawfully	Option 1 <ul style="list-style-type: none"> • Reconvene meeting and report advice received • Vote in accordance with that advice 	<ul style="list-style-type: none"> • Decision taken and actioned
<p>A decision must be taken at the meeting to protect/preserve the Council's position in relation to -</p> <p>(a) Any application for or entitlement to any grant or subsidy</p> <p>(b) The securing of any income or other revenue</p> <p>(c) The avoidance of any penalty or other liability</p> <p>(d) Any other matter of a like nature relating to the proper and lawful discharge of the Council's functions</p>	Option 2 <ul style="list-style-type: none"> • Reconvene meeting and report advice received • Vote in a manner that protects/preserves the Council's interest • Where this can be limited to an interim step recall the Council to a special meeting to consider the matter afresh in accordance with Option 3 	<ul style="list-style-type: none"> • Decision taken and actioned • If possible, this be limited to interim decision and special meeting be called in accordance with Option 3
A decision must be made but may be deferred to enable discussions between party groups	Option 3 <ul style="list-style-type: none"> • Reconvene meeting and report advice received • Adjourn item to a special meeting when it will be considered afresh 	<ul style="list-style-type: none"> • Special meeting to be convened within 5 working days unless special reasons accepted by Monitoring Officer for shorter or longer period. Such reasons to be specified in Summons for special meeting • Advice of Monitoring Officer will be sought and followed in relation to any interim arrangements that may be necessary as a result of the adjournment. Such arrangements will, so far as possible, seek to maintain status quo pending a resolution of the issue
No decision is required	Option 4 <ul style="list-style-type: none"> • Reconvene meeting and report advice received • Do not exercise casting vote 	<ul style="list-style-type: none"> • Item not carried – eligible for re-submission to a subsequent Council Meeting

CITY OF WOLVERHAMPTON COUNCIL	Governance and Ethics Committee 25 March 2022
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Report title	Annual Code of Conduct Report	
Cabinet Member with lead responsibility	Councillor Paula Brookfield Cabinet Member for Governance and Equalities	
Wards affected	All Wards	
Accountable director	David Pattison, Chief Operating Officer	
Originating service	Governance	
Accountable employee	David Pattison	Chief Operating Officer
	Tel	01902 550320
	Email	David.pattison@wolverhampton.gov.uk
Report to be considered by	N/A	

Recommendations for decision:

That Governance and Ethics Committee:

1. Notes the report.
2. Adopts the Social Media Protocol at Appendix 1
3. Agrees to the recruitment of additional independent persons.

1.0 Purpose

- 1.1 This report provides an annual update on the activity on matters involving the Code of Conduct, in line with the constitution.
- 1.2 In accordance with the relevant legislation the details of the complaints are confidential unless and until they are made public through the process either through a formal hearing or a requirement of an apology. As such this report will not include names and details of the complaint sufficient to identify the complainant or the person complained about.

2.0 Background

- 2.1 **Localism Act 2011** – it is important to set out the legal framework and what actions can, and cannot, be taken through it.
- 2.2 Government accepted that it was important to have safeguards in place to prevent the abuse of power and misuse of public money, given that those who elected members to office had the right to expect the highest standards of behaviour. However, it considered that the standards regime under the LGA 2000, under which all local authorities by law had to adopt a national code of conduct and a standards committee to oversee the behaviour of members and receive complaints, regulated by Standards for England, was *ineffective, bureaucratic and encouraged petty complaints or harmful accusations*.
- 2.3 It therefore proposed that, through the Localism Act 2011, local authorities would draw up their own local codes of conduct and it would become a criminal offence for members to deliberately withhold or misrepresent a financial interest. However, concerns have been raised by the Committee on Standards in Public Life (CSPL) in various reports, following the implementation of the Localism Act 2011, as to whether the sanctions for breach of standards were adequate and that it would therefore be monitoring the implementation of the new local government standards regime. CSPL has made a series of recommendations for reform to the Code.
- 2.4 Government has on 18.3.22 now responded to the CSPL's recommendations in its review of Local Government Ethical Standards. The full response can be read here. <https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report>. It should be noted that the Council has implemented the LGA's model code of conduct and as such is in line with the recommendations of Government.
- 2.5 **Code** – Under section 27 of the Localism Act 2011, a relevant authority must:
 - Promote and maintain high standards of conduct by its members and co-opted members.
 - When discharging its duty, adopt a voluntary code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in their capacity as members (that is in an official capacity).

(There is therefore no requirement in relation to members' private lives although disqualification as a result of imprisonment for three months or more under section 80 of the Local Government Act 1972 remains.)

The decision in *Livingstone v Adjudication Panel for England* [2006] EWHC 2533 helpfully clarified that "official capacity" in the previous 2007 Model Code that applied in England meant:

- Conducting the business of the authority or the member's office.
- Acting, claiming to act or giving the impression that a member is acting as a representative of their authority.

Therefore, any conduct in a member's private capacity will only be covered by a relevant authority's code if they engage in an activity that has a link with the functions of the member's office. Accordingly, words spoken to a journalist by the former Mayor of London, Ken Livingstone, likening the journalist to a concentration camp guard, were not only not spoken in an official capacity, but also were not arguably in the performance of his functions as Mayor.

The seven Nolan principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) are set out in section 28 of the Localism Act 2011. Section 28 provides that a local authority in England must ensure that its code of conduct includes appropriate provisions for registering, and disclosing:

- Pecuniary interests.
- Interests other than pecuniary interests.

However, section 28(6) requires a relevant authority to have arrangements in place to deal with complaints that its code of conduct has been breached, including arrangements for:

- Complaints to be investigated.
- Decisions on allegations to be made.

The body that carries out the function in relation to the Code of Conduct at this authority is the Governance and Ethics Committee. The Council's constitution provides that the Monitoring Officer will receive, assess, refer and determine complaints that Councillors have not complied with the Code of Conduct and will refer these to the Council's Governance and Ethics Committee for determination where an investigation has taken place. The approach that the Council adopts for dealing with complaints is in line with the LGA's recommendations on dealing with complaints.

The arrangements are designed to ensure that the most serious complaints are ones heard by the sub-Committee and not ones that are either outside the jurisdiction of the Committee or indeed ones that are considered capable of informal resolution or not proportionate to be investigated.

2.6 The role of the independent person - Section 28(7) of the Localism Act 2011 requires a relevant authority to appoint at least one independent person whose views must be

sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate. Members who have had an allegation made against them may, if they wish, also seek the views of the independent person. This Council currently has one independent person, Ray Tomkinson.

It is recommended that further independent persons are appointed as a matter of good practice in order to support the existing Independent person. As a result of the recent work on allowances it has been agreed that the independent persons will receive an allowance of £750 for their work.

2.7 **Sanctions** – The Localism Act 2011 does not give a relevant authority any power to impose sanctions for breach of its code, such as:

- Disqualification/Suspension from office
- Withdrawal of monetary allowances payable under the Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 2003/1021)

Therefore, possible sanctions may include:

- Training for the Councillor
- A formal letter to the member found to have breached the code.
- Formal censure by motion.
- Removal of the member from a committee or committees.
- Adverse publicity that may (or may not) reduce the electorate's confidence in the member so that they are not re-elected.

3.0 **CWC's Code of Conduct**

3.1 **Formal Code of Conduct** - In line with a number of authorities the Council adopted the LGA model Code of Conduct in May 2021 following a report to this Committee. It also adopted a revised hearing procedure in July 2021.

3.2 **Steps to promote compliance** – the Council has ensured that all new Councillors have had training on the Code of Conduct and the rules regarding disclosure of pecuniary interests on taking office. In addition a large amount of training has been provided for all Councillors about good behaviour, including sessions provided to each political group. In addition training has been provided by external providers on the Code and what it means in practical terms.

A further round of training has been organised which will take place shortly after the election in May 2022 provided by the Monitoring and Deputy Monitoring Officers.

3.3 **Procedures for dealing with complaints** – the Council takes the approach recommended by the LGA in dealing with complaints. Indeed the Council's approach is that complaints should be treated confidentially until such time as they become public through a report to the Committee or through actions required through informal resolution.

As a result of the recent pandemic and other matters there have at times regrettably been some delays in dealing with complaints, in order to address this an additional Deputy Monitoring Officer has been appointed.

3.4 Complaints –

In Municipal Year May 2020 – May 2021 there were 6 complaints, of these 2 were dismissed as being outside of the code and 4 were dealt with through informal procedures.

In Municipal Year 2021- 2022 there have been 6 complaints of these 3 have been addressed through informal resolution, 1 has been received recently and 2 are being investigated.

The majority of the complaints relate to the use of social media. As a result of this the Committee has previously considered a protocol on the use of social media and as such it is now proposed that this is adopted.

4.0 Financial implications

4.1 There are no financial implications arising from the proposed amendments to the Constitution.

5.0 Legal implications

5.1 The Council is required to have procedures in place regarding the Code of Conduct under the Localism Act 2011. [DP/24032022B]

6.0 Equalities implications

6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.2 The Constitution seeks to ensure that, in its decision-making and its operations, the Council fully complies with the public-sector equality duty.

7.0 Any other implications

7.1 There are no other implications arising from recommendations in this report.

8.0 Schedule of background papers

8.1 Code Update - July 2021

9.0 Appendices

9.1 Appendix 1 – Social Media Protocol

Appendix 1

Guidance on Councillors' use of Social Media and Mobile Devices

This guidance applies to Councillors, it is also general good practice for professional conduct.

Social media is a positive tool to communicate and engage with your constituents and many councillors are increasingly using it to do just that. This guide is therefore not designed to put you off using social media, but rather to help you avoid its pitfalls.

The Council's Corporate Communications Team and the Democratic Services Team are available to help you with any questions you might have about social media.

What is the purpose of this guidance?

The purpose of this guidance is to provide parameters for Councillors' appropriate use of social media and mobile devices.

Improper use of social media and mobile devices could be used as grounds for challenging a contentious decision or result in complaints of breaching the Councillors' Code of Conduct, for a failure to show respect for others or bringing the Council or the office of Councillor into disrepute.

Good practice on the use of social media and mobile devices, popular social media platforms include Facebook, Twitter, LinkedIn, YouTube, Instagram, TikTok and blogs (web logs). Types of mobile devices include smartphones, tablets and laptops.

Councillors may use these and other platforms in their official capacity, but should remember that the public may still perceive them as acting in that capacity even when that is not their intention.

A general rule of thumb is that if you wouldn't say something in a public meeting, do not say it on social media.

Councillors should:

- consider whether they need to set appropriate privacy settings for any blog or networking site – especially if it is a private, non-political blog;
- keep an eye out for potentially defamatory, untrue or obscene posts from others and remove them as soon as possible to avoid the perception that they condone such views;
- be careful about any connection with service users who are vulnerable adults or children, as this could be regarded as a safeguarding issue;
- ensure they use Council facilities appropriately;

- be aware that by publishing information that they could not have accessed without their position as a Councillor, they will be seen as acting in their official capacity;
- be careful about being too specific or personal if referring to individuals; and
- be aware that the libel laws and other legislation cover blogs, social media and other forms of digital content publication.

Councillors should not:

- place images or text on their site from a copyrighted source (for example extracts from publications or photos) without permission;
- post comments that they would not be prepared to make face to face;
- refer in a blog to any information identified by the Council as confidential or exempt;
- disclose information given to them in confidence by anyone or information acquired by them which they believe or are aware is of a confidential nature;
- publish personal data of individuals except with express written permission to do so;
- give the impression that they are expressing the views of the Council where it is not appropriate to do so; and
- if they are involved in determining planning or licensing applications or other quasi-judicial decisions, publish anything on their blog that might suggest they do not have an open mind about a matter they are involved in determining.

The Use of Social Media and Mobile Devices at Meetings

Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. Councillors should remember that most meetings are now recorded. There may be occasions when texting or emailing between Councillors during meetings on matters relevant to the debate at hand may be valuable (on the same basis as circulating paper notes to other Councillors). Mobile devices also enable Councillors to manage their busy lives when time is at a premium.

However, frequent use of these devices during meetings may give the public the impression that the Councillor is not paying full attention to an item that is being discussed in a debate on a decision that is to be made.

Examples of acceptable use:

- reading and annotating meeting papers and background information relevant to that meeting;

- communicating with others at the meeting on matters relevant to the debate at hand
- sending and receiving communications to/from home relating to domestic circumstances (e.g. childcare arrangements), within reason and with common sense.

Avoid the following:

- using social media during quasi-judicial meetings or during the consideration of confidential or exempt items of business at meetings; and
- frequently checking emails and messages that are not related to the meeting;
- taking and sending electronic images of proceedings; and
- extended periods of use that suggests that insufficient attention is being paid to the meeting.

The LGA (Local Government Association) has developed some background information on the use of social media for Councillors which is available to access [here](#). Further support and guidance such as do's and don'ts when using social media are also available from the LGA and available to access [here](#).

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CITY OF WOLVERHAMPTON COUNCIL	Governance & Ethics Committee 25 March 2022
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Report title	Monitoring Officer Update	
Cabinet member with lead responsibility	Councillor Paula Brookfield Cabinet Member for Governance and Equalities	
Accountable director	David Pattison: Chief Operating Officer	
Originating service	Governance	
Accountable employee	David Pattison	Chief Operating Officer
	Tel	01902 553 840
	Email	David.Pattison@wolverhampton.gov.uk
Report has been considered by	Not applicable.	

Recommendation for action:

The Governance and Ethics Committee is recommended to:

1. Note the report and provide any feedback on the report.

1.0 Purpose

1.1 To provide an annual report on Code of Conduct Matters.

2.0 Background

2.1 The Council's constitution sets out the remit of the Committee below:

The Governance and Ethics Committee will have responsibility for the following functions which are reserved to it:

The Governance and Ethics Committee will have the following Terms of Reference:

- a. Shall be an advisory body, comprising Councillors, dealing with governance, ethics and constitutional arrangements.*
- b. Shall, where appropriate, consider and advise the Council on matters relating to the Council's governance and Constitution, including standards of conduct, the timetable of meetings, the administrative and procedural arrangements for implementing new legislation and the terms of reference of or scheme of delegation to Council bodies.*
- c. Shall consider and advise the Council on elections and electoral arrangements, including boundary reviews, and polling districts, places and stations, where these are not the sole responsibility of the Returning Officer.*
- d. Be consulted, and may offer feedback for consideration, on elections and electoral arrangements that are the sole responsibility of the Returning Office.*
- e. Shall advise Full Council on the adoption or revision of the Councillors' Code of Conduct and Councillors' Allowances Scheme.*
- f. Shall liaise between the Council and the Ombudsman;*
- g. Shall advise the Council on the conferment of the title of Honorary Alderman or Freedom of the City;*
- h. Shall advise the Council on the making, amendment, revocation or re-enactment of bylaws and the promotion of or opposition to local or personal Bills in Parliament.*
- i. Promoting and maintaining high standards of conduct by Elected Members and coopted Members;*
- j. Making recommendations to the Council on the appointment of "independent persons" under the Localism Act 2011;*
- k. Approving and revising the Complaints Protocol which will set out the*

detailed procedures for considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members;

l. Considering complaints made against Elected and Co-opted Members under the Code of Conduct for Elected and Co-opted Members in accordance with the Complaints Protocol;

m. Monitoring the operation of the Code of Conduct for Elected and Co-opted Members and making appropriate recommendations to the relevant body;

n. At the request of the member or co-opted member concerned, reviewing any decision of the Monitoring Officer not to grant a dispensation in relation to disclosable pecuniary interests in accordance with Section 33 of the Localism Act 2011;

o. Monitoring the operation of the Code of Conduct for Employees and making appropriate recommendations to the relevant body;

p. Considering any other matters which are relevant to the ethical governance of the Council, its Members or Employees.

Governance and Ethics (Hearings) Sub-Committee

The Sub-Committee shall conduct hearings into allegations that a Councillor has breached the Code of Conduct for Councillors of the relevant authority in accordance with the arrangements for such hearings approved by the Council.

2.2 The agreed work programme for the year for the Committee is as follows:

Governance Committee Forward Plan for the 2020-2021 Municipal Year			
Date of Meeting	Title of Report	Lead Officer	Status/Publication date
3 September 2021	Proposed reaction to the LGBCE consultation	Laura Noonan/David Pattison	Completed
	Regular Monitoring Officer Update	David Pattison	Completed
	Electoral Cycle report	David Pattison	Completed
	Further revisions to the Constitution	David Pattison	Deferred to October meeting
	Petitions	Jas Kaur	Deferred to October meeting
	Alderman	Jas Kaur	Completed

22 October 2021	Regular Monitoring Officer update	David Pattison	14 October 2021
	Proposed review of Current Councillor Allowance scheme – expires in May 2022	David Pattison	Completed
	Local Government and Social Care Ombudsman Annual Report	David Pattison	Deferred to November meeting
	Councillor enquiries	Laura Gittos	Completed
	Constitution(including adoption of definition of Islamophobia)	David Pattison	Completed
10 December 2021 (revised date)	Regular Monitoring Officer update	David Pattison	2 December 2021
	Report on Allowances – draft report to IRP (new item)	David Pattison	Completed
	Report of the Association of Electoral Administrators (new item)	David Pattison	Completed
	Freedom of the City Report (new item)	David Pattison	Completed
	Councillor Enquiries Update (new item)	Laura Gittos	Completed
14 January 2022	Regular Monitoring Officer update	David Pattison	6 January 2022
	Election preparation update	Laura Noonan	On Agenda

	Annual Canvass (New)	Laura Noonan	On Agenda
	Constitution – further report	David Pattison	Move to February meeting to ensure complete report and contents discussed with each Group in advance
18 February 2022	Regular Monitoring Officer update	David Pattison	10 February 2022
	Report on implementation of the LGBCE review	Laura Noonan	On agenda
	Alderman report	Laura Gittos	On agenda
	Councillor Allowances	David Pattison	On agenda
	Annual report on Code of Conduct matters (new item)	David Pattison	On agenda
25 March 2022	Regular Monitoring Officer update	David Pattison	17 March 2022
	Election update	David Pattison	On agenda
	Code of Corporate Governance	David Pattison	To go to next meeting
	Constitution review	David Pattison	On agenda
	Calendar of Meetings	David Pattison	Additional item

2.3 This report provides an update on issues coming to the Committee and any developing issues within the scope of the Committee and if they take place after the publication of the report a verbal update will be given. As always if members of the Committee wish for other items to be added they should speak to the Chair of the Committee.

3.0 Update on position

3.1 **Elections update** - a detailed update report on the May 2021 elections went to the July meeting of the Committee. Following the May 2021 election a peer assessment from the

Association of Electoral Administrators to assess where election planning worked well and where it can be improved.

- 3.2 A detailed paper was brought to the January meeting of the Committee and a further update is on the agenda for this meeting.
- 3.3 As has been set out in the report to the Committee the Council is, in addition to the election on 5.5.22, also running a by-election on 7.4.22 for East Park ward.
- 3.4 **Local Government Boundary Commission for England Review** – details of the implementation plan were brought to the February meeting of the Committee. The Commission published final recommendations on 18 January 2022.
- 3.5 A further report on the implementation of this will come to the next meeting of the Committee, this includes the polling district and polling station review which gives us the opportunity to closely consider which stations are to be used at the 2023 elections and going forwards.
- 3.6 **Constitution revisions** – as the Committee is aware the Constitution has been reviewed in detail in the last year with a number of changes made at the Annual meeting of Council on 19 May 2021, the meeting of Council on 21 July 2021 and the meeting on 3 November 2021. Further changes will be brought forward shortly, these will include:
- Proposals re public questions at full Council
 - Review of the rules of debate
- 3.7 There are a number of changes that are proposed, these are set out in the paper on the agenda.
- 3.8 **Freedom of the City nominations** – the Council has, on 2.3.22, awarded Lisa Potts the status of Freewoman and there are 2 other nominations currently being considered in line with the process agreed at the July 2021 Committee meeting.
- 3.9 **Councillor Enquiries Unit** – It is critical that we continue to work on improving the CEU process. Meetings with the working group of councillors have been arranged to ensure that we improve the processes.
- 3.10 Updates from CEU:
- As of this week closed cases are now at 94 percent with another 6 percent on hold.
 - We currently have 48 overdue enquiries and 16 on hold of which 13 are City Environment. 1 is finance and 2 are Wolverhampton homes.
 - Wolverhampton Homes now only have 2 enquiries overdue and meet with CEU regularly on the last Wednesday of every month to Discuss any cases and feedback both ways to improve services

- Enquiries inbox response time is currently less than 24 hours to acknowledge incoming emails.
- IT development on the Customer Engagement Platform (CEP) testing is in progress.
- Show and Tell engagement session with nominated councillors has led to further development of the Dashboard. We are currently looking to develop a simpler information which will show the data on a page in an easier to understand format
- Lukhvinder Sanger the Councillor Enquiries Manager is holding one to one session with councillors to explain how the dashboard and portal work on a face to face basis – he can be contact via email or phone and is happy to support all Councillors.

3.11 **Councillor Allowances** – the Independent Remuneration Panel met on 12 January 2022 and Council adopted the scheme in its entirety on 2.3.22. The scheme will be in place for 4 years following the election on 5.5.22.

3.12 **Code of Conduct matters** – the annual report is on the agenda and includes:

- Detailed Social Media Protocol as well as additional advice notes for Councillors and a proposed programme of training
- Report on the appointment of additional independent persons
- Review of revised Code of Conduct

4.0 Financial implications

4.1 There are no financial implications arising from the recommendation in this report as Governance and Ethics Committee is simply asked to note the update and provide any feedback. [AS/24032022/B]

5.0 Legal implications

5.1 This is simply an update report and no substantive decisions are made through it so there are no legal implications as such. [DP/24032022/A].

6.0 All Other Implications

6.1 There are no other implications arising from the recommendation in this report.

7.0 Schedule of background papers

7.1 None

8.0 Appendices

8.1 None.

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