



SPECIAL MEETING OF THE
OVERVIEW, SCRUTINY AND AUDIT COMMITTEE

PHOENIX HOUSE, NOTTINGHAM ROAD, MELTON MOWBRAY

11 APRIL 2011

PRESENT

Councillors E. Holmes (Chairman)
P. Cumbers, S. Dungworth,
M.R. Sheldon, N. Slater

Strategic Director (CM)
Senior Democracy Officer; Democracy Officer (LS)

OS62. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Chapman, Holt, Illingworth and D.E. Orson.

OS63. DECLARATIONS OF INTEREST

There were no declarations of interest.

OS64. REVIEW OF THE COUNCIL'S CONSTITUTION 2010/11

The Strategic Director submitted a report (copies of which had previously been circulated to Members) which asked the Committee to consider a list of proposed amendments to the Constitution that were considered by the Constitution Review Task Group on 29 March 2011. The Committee discussed each proposed amendment in turn. The Committee made additional recommendations in relation to the following items:

- Arising from Revision to item 21: Revisions to Officer Delegations: the Committee recommended that Parish Councils also be consulted on the numbering of houses and naming of streets;
- Arising from the item on substitute Members, the Committee recommended that training on planning, Code of Conduct, Equalities, and other relevant subjects be offered to Parish Councillors. It also recommended that a review of the Member Induction training be undertaken in the autumn. Members

also requested that training be provided on the ICT technology that would be available to them in Parkside;

- Arising from the item on Urgent Motions, the Committee recommended that a review of public speaking at Development Committee be carried out;
- Arising from the item on Licensing and Regulatory Committee – Chairing of Licensing Panels, the Committee expressed its concern about lack of clarity over the chairing arrangements. It was recommended that the legal position on this matter be clarified.

RESOLVED that

(1) the Constitution Review Task Group’s recommendations set out in the table below, together with additional recommendations proposed by the Overview, Scrutiny and Audit Committee be agreed :

No.	Item
1.	<p>PROPOSED AMENDMENTS TO THE CONSTITUTION Revisions to Officer Delegations Following the restructure of Management Team, the revised Officer Delegations were circulated and considered by the Task Group :-</p> <ul style="list-style-type: none"> • Chief Executive • Monitoring Officer • Head of Central Services • Solicitor to the Council • Corporate Property Officer • Head of Communications • Head of Communities and Neighbourhoods • Head of Regulatory Services <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group at (a) subject to the further additional wording in italics at (b):</p> <p>(a) The Task Group agreed the revisions with one amendment to item 21 of the delegations of the Head of Regulatory Services that the following words be added :</p> <p><i>(b) ‘and Parish Councils unless there is any dispute e.g. with the Parish Council in which case it should be reported to committee.’</i></p>
2.	<p>Consequential amendments to Officer References The Constitution be amended throughout to reflect the new names of the Heads of Service eg. Financial Procedure Rules and Contract Procedure Rules to be amended to Head of Central Services where was previously Head of Financial Services.</p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group:</p> <p>The Task Group agreed the amendments and that any future changes be</p>

	<p>made to the Constitution where an officer changed job title.</p>
3.	<p>Financial Procedure Rules Amendments shown in tracked changes to take in audit recommendations etc.</p> <p><u>RECOMMENDED:</u> To endorse the following :-</p> <p>(1) The Task Group agreed the amendments to the Financial Procedure Rules (FPR).</p> <p>(2) The Task Group proposed that a system needed to be in place to ensure that any process that was already included in the FPR, such as that set out below, did not duplicate the work of the Extraordinary Efficiency Task Group.</p> <p><i>Extract from FPR, Section 1, 1.4:-</i></p> <p>1.4 <i>The Overview, Scrutiny and Audit Committee shall be responsible for the performance review function of the Council by:-</i></p> <ul style="list-style-type: none"> <i>(i) selecting heads of continuing expenditure for review;</i> <i>(ii) comparing such expenditures with comparable financial standards and trends; and</i> <i>(iii) expressing opinion whether such expenditures are providing value for money and reporting with recommendations.</i>
4.	<p>Amendment to Contract Procedure Rules – Page 91 “The threshold value at which EU Procurement Directive must be applied if expected to be exceeded by the <i>Total Value</i>.</p> <p>The revised thresholds are:-</p> <p>£156,442 for the supply of goods or services, and £3,927,260 for building and engineering works contracts.</p> <p>These figures apply up to 31 December 2010 and will then be revised. The thresholds are revised every year.</p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed the above amendments.</p>
5.	<p>Amendment to Contract Procedure Rules – Page 112 Amendment to Appendix B (Exemption request form) page 112 in the Contract Procedure Rules section of the Constitution to be electronically available for digital signature and to include an area for the Head of Central Services to sign (please see Rule 1 – Introduction and Purpose, section Exemptions and Exceptions 1.3.3) - Page 95.</p> <p>This will then bring the form into line with the written procedures.</p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed the above amendment.</p>

<p>6.</p>	<p>Suspension of Procedure Rules The MO/Assistant Solicitor asked if the guidance around voting to suspend Procedure Rules could be more explicit in the Constitution.</p> <p>This may need to include some protocols for Chairs on how to deal in such situations.</p> <p>Existing suspension rules read :</p> <p>21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES</p> <p>Suspension</p> <p>21.1 <i>All of these Council Rules of Procedure except Rules 16.6 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.</i></p> <p>Amendment</p> <p>21.2 <i>Any motion to permanently add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting.</i></p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed to add the word ‘permanently’ in 21.2 as follows :-</p> <p>Amendment</p> <p>21.2 <i>Any motion to permanently add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting.</i></p>
<p>7.</p>	<p>Substitute Members JW advises that the reintroduction of a procedure to approve substitutes has been raised at the Development Committee to help ensure that political balance is maintained and to allay public concern regarding low attendance when making important decisions.</p> <p>This approach has been supported by the recent OSA Committee during consideration of the ‘cascade’ restructuring.</p> <p><u>RECOMMENDED:</u></p> <p>(1) To endorse the proposed addition suggested by the Task Group ie.</p> <p>The Task Group agreed that a formal Substitute Scheme be drafted for Appeals, Development and Licensing Committees only and it was noted that the Members involved in the scheme would require the appropriate training;</p> <p>(2) That training on planning, code of conduct, equalities, and any other</p>

	<p>relevant training be offered to Parish Councillors;</p> <p>(3) That the Member Development Steering Group review the Members' induction training in the autumn and forward its findings to the Overview, Scrutiny & Audit Committee. The item be added to the Committee's Work Programme;</p> <p>(4) That arrangements be made for ICT training for Members to take account of the new technology in Parkside as well as to maximise Member skills in this area</p>
8.	<p>Quoracy The OSA Committee has requested that quoracy at committees and sub-committees be at least 4 Members and a new item on quoracy be added to the Procedure Rules at 7.2 as follows :</p> <p>7. QUORUM</p> <p>7.1 <i>The quorum of a meeting will be at least half of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.</i></p> <p><i>7.2 In respect of committees and sub-committees quoracy be a minimum of 4 members or 25% of the whole number of members, whichever is the greater.</i></p> <p>There was concern that a quarter of the whole number of Members at a Council Meeting was not sufficient representation for decision-making, and even though this was in line with legislation, Members proposed that this be increased to half.</p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed quoracy at 7.1 should be increased to half of the whole number of Members and in respect of the new 7.2, this was agreed. Therefore the new 7.1 and 7.2 read as follows :-</p> <p>7.1 <i>The quorum of a meeting will be at least half of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.</i></p> <p><i>7.2 In respect of committees and sub-committees quoracy be a minimum of 4 members or 25% of the whole number of members, whichever is the greater.</i></p>
9.	<p>Urgent Motions To amend the procedure rule relating to 'Motions on Notice' to include a similar facility to 'Questions from Members' ie. may be received by 10 a.m. on the date of the meeting if relates to an urgent matter</p>

Existing Motions Wording :-

11. MOTIONS ON NOTICE

Notice

11.1 *Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least two members, must be delivered to the Proper Officer not later than six working days before the date of the meeting. These will be entered in a book open to public inspection.*

Motion set out in agenda

11.2 *Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.*

Existing Questions Wording :-

Notice of questions

10.5 *A Member may only ask a question under Rule 10.3 or 10.4 if either:*

they have given at least six working days notice in writing of the question to the Proper Officer; or

the question relates to urgent matters, they have the consent of the chairman to whom the question is to be put and the content of the question is given to the Proper Officer by 10.00 a.m. on the day of the meeting; and, in either case

the Proper Officer or Chief Executive may amend a question of which written notice is given under this Procedure Rule to exclude any inappropriate language.

RECOMMENDED:

(1) To endorse the addition proposed by the Task Group:

The Task Group agreed to add a provision for urgent motions in similar wording to the urgency provision in Notice of Questions at 10.5(b) above.

(2) That the procedure rules for public speaking at the Development Committee be reviewed.

10. Urgent Business at Council

There are some legal intricacies within the Local Government Act which do not allow urgent business to be considered at Council Meetings.

It is considered that this provision is not widely known and many Councils still operate 'Urgent Business' at Council. It was suggested that the reason may be the risk associated with the short notice for consideration of an item and the finality of Council decisions.

To consider deletion of the following that is included as standard within the Constitution in the list of business that may be considered at Ordinary Meetings of the Council :-

- To consider any other items that the Chairman decides are urgent

The LG Act 1972 para 4(5) Sch 12 states :-

'Except in the case of business required by or under this or any other Act to be transacted at the annual meeting of a principal council and other business brought before that meeting as a matter of urgency in accordance with the council's standing orders, no business shall be transacted at a meeting of the council other than that specified in the summons.'

According to Knowles (an authority on Local Government legislation and practices) *'the literal interpretation of this paragraph means that urgent business can only be considered at the annual meeting of a council, and then only if the authority's standing orders allow for it. The effect of the 1985 Act is to restrict this still further by requiring the chairman to be of the opinion that the business is urgent before it can be considered. It does not extend the facility to consider urgent business to ordinary or extraordinary meetings of the council. Placing an item such as 'To consider such other business as the Chairman considers urgent' does not satisfy the requirement that the business should be specified. The only exception to this would be where business required by law to be done was inadvertently omitted from the agenda.'*

RECOMMENDED: To endorse the revisions proposed by the Task Group.

The Task Group agreed to not take urgent business at Council and the Constitution be amended accordingly.

11. **Special Committees?**

To consider status of these meetings. The term is used locally for additional meetings however it is not currently recognised in the Constitution. Additional Council Meetings are known as Extraordinary Meetings and these have specific rules as to how they are called and business is restricted to a single item.

Knowles (an authority on Local Government legislation and practices) states :-

'A special committee is one appointed for a short-term purpose eg. to deal with a specific matter that does not fall within the terms of reference of any standing committee or that otherwise is considered to merit particular attention by a committee of members perhaps selected for their knowledge or experience. Sometimes such a committee is referred to as an ad hoc committee... An example of such a special committee is the selection committee appointed to recommend the personnel for standing committees, and often invested with the duty of revising standing orders and the terms of reference to standing committees.'

Recent further advice has suggested that if the Council wish to use the term 'Special Committee' for additional meetings, then there be reference to Special Committees in the Constitution within the Procedure Rules.

Members may prefer to use the term 'Ad hoc for an additional committee'.

RECOMMENDED: To endorse the revisions proposed by the Task Group.

The Task Group agreed to use the term 'Ad hoc' for additional committee meetings and appropriate reference be made in the Constitution.

12.	<p>ICT Protocol for Members</p> <p>This document has been developed over the past year and has been considered by the Member Development Steering Group and the Group Leaders.</p> <p>The document is to provide a usage structure to the 'ownership' of electronic equipment by Members and is intended to be introduced for the new Council and be signed by a Member upon receipt of a Council laptop/ipad.</p> <p><u>RECOMMENDED:</u> To endorse the proposal by the Task Group</p> <p>The Task Group agreed the ICT Protocol for Members.</p>
13.	<p>Member Roles & Responsibilities</p> <p>This document has been developed over the past year and has been considered by the Member Development Steering Group and the Group Leaders.</p> <p>This document is to assist Members to understand their role and what is expected of them. It is intended to be introduced for the new Council as part of the Induction Pack and help form the basis of Personal Development Reviews for Members</p> <p><u>RECOMMENDED:</u> To endorse the proposal by the Task Group.</p> <p>The Task Group agreed the Member Roles and Responsibilities document.</p> <p>It was noted that the Chair of the Member Development Steering Group preferred that the Members' Training budget be primarily used for training groups of Members rather than courses for individuals with no linkage to the Member Development Plan identified through the personal development reviews.</p>
14.	<p>Members' Remuneration Scheme – Printer Cartridges</p> <p>At the last review of the scheme in October 2008, it was agreed that :-</p> <ul style="list-style-type: none"> • the claiming of printer cartridges and paper be approved on production of a receipt and there be parity with the staff scheme when this is introduced; <p>Since October 2008, the following has been included in the Staff Homeworking Scheme :</p> <p><i>'Employees are encouraged not to print documents etc unless absolutely necessary. Where printing is required employees should print at the office however where this is not practicable printing may be undertaken at home and employees may claim (on the production of a receipt) for consumables up to the value of £50.00 per annum per employee.'</i></p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed that the claiming of printer cartridges by Members</p>

	<p>be in line with the Staff Homeworking Scheme and the Members' Remuneration Scheme be amended accordingly.</p>
<p>15.</p>	<p>Licensing and Regulatory Committee – Chairing of Licensing Panels The Chair of the Committee has requested that the terms of reference of the Committee be amended with regard to the chairing of the Licensing Panels and the following (in italics) be added :-</p> <p>LICENSING PANEL</p> <p>COMPOSITION</p> <p>3 Members not politically balanced <i>to include the Chair or Vice Chair of the Licensing and Regulatory Committee where possible who will Chair the Sub Committee.</i></p> <p>Officers have some concern that this additional provision could undermine the requirement to hold a panel which is not politically balanced.</p> <p><u>RECOMMENDED:</u></p> <p>(1) To endorse the proposal by the Task Group:</p> <p>The Task Group did not agree to the change to the composition of the Licensing Panel as all Licensing Committee Members were trained to take the Chair role and there were notes available to assist a Chair if required.</p> <p>It was agreed that the Chair notes be recirculated to the Licensing Committee for reference as needed.</p> <p>(2) That the legal position on the requirement to elect a Chair for each meeting of the Licensing Panel be clarified.</p>
<p>16.</p>	<p>Standards Committee : Terms of Reference At the meeting of the Standards Committee on 9 December 2010 the following recommendation was agreed :-</p> <p><i>'The Committee considered a recommendation to Full Council to change the constitution in respect of the term of office of the Committee's remaining independent Members so that they would see the abolition of the current system to its conclusion without unnecessary costs of recruitment etc.'</i></p> <p>The relevant extract of the Constitution is as follows and the suggested new wording is underlined and the deletion is in brackets :-</p> <p><i>Standards Committee</i></p> <p><i>The Council meeting will establish a standards committee.</i></p> <p><i>Composition</i></p> <p><i>(a) Membership.</i> <i>The Standards Committee will be composed of</i></p> <ul style="list-style-type: none"> <i>• four Councillors;</i> <i>• four persons who are not councillors or officers of the Council or any other body having a standards committee (Independent Members) the Term of Office of the Independent Members will be until the legislation requires the function to end (five years);</i>

	<ul style="list-style-type: none"> • <i>three members of a parish council wholly or mainly in the Council's area (a parish member);</i> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed to the change to the Composition of the Standards Committee to add the words 'until the legislation requires the function to end' in place of 'five years'.</p>
17.	<p>Financial Procedure Rules To request that in the extract below within the FPR, the amount be increased from £20,000 to £50,000</p> <p><i>A Committee proposing to vary its approved programme of capital expenditure by the addition, deletion or material modification of a project in that programme shall submit a recommendation to the Policy, Finance and Administration Committee. The Policy, Finance and Administration Committee may approve, but not disapprove, the proposal on the Council's behalf. Such approval shall not be required where a Committee wishes to transfer an amount not exceeding £50,000 from one head of the capital programme to another.</i></p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed to the above amendment to the Financial Procedure Rules.</p>
18.	<p>New Management Structure The revised management structure replace the previous version in the Constitution at Part 7.</p> <p><u>RECOMMENDED:</u> To endorse the amended version of the revised management structure circulated at the meeting.</p> <p>The Task Group agreed that the revised management structure chart be added to the Constitution.</p>
19.	<p>Contract Procedure Rules The reference to locking tenders in a safe be amended to a cupboard with unique key access?</p> <p>Current wording :- 3.4 <i>Receipt of Tenders</i> <i>All tender documents are to be kept securely in the safe in the Post Room until after the closing date and time.</i></p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed that the reference to locking tenders in a safe be amended to a cupboard with unique key access using 2 keys and 2 people being present to open the cupboard.</p>
20.	<p>Use of Private Vehicles by Members in connection with Council matters The Task Group to consider the Briefing Note and advise whether a new policy is required.</p>

	<p><u>RECOMMENDED:</u> To endorse the proposal put forward by the Task Group.</p> <p>The Task Group agreed that a policy be drafted taking account of the guidance provided.</p>
21.	<p>Calendar of Meetings 2011 12 The Task Group to consider the enclosed Calendar of Meetings for 2011-12.</p> <p>Due to efficiencies, the Task Group is requested to consider whether a Council Meeting in December is needed and if not, the REEA Committee in November could be moved to 14 December.</p> <p><u>RECOMMENDED</u> To endorse the revised copy of the Calendar of Meetings 2011-12 as circulated at the meeting.</p> <p>The Task Group agreed the Calendar of Meetings for 2011-12 as drafted and the Council Meeting in December be retained. It was noted that the dates had been checked with the County Council to ensure there were no clashes with LCC's full County Council meetings.</p>
22.	<p>PFA Committee – Terms of Reference It is suggested that an additional TOR be added to the PFA Committee as follows :-</p> <p><i>The Committee shall not have the power to appoint a sub-committee to determine restructuring proposals, save in relation to any Member appointments required.</i></p> <p><u>RECOMMENDED:</u> To endorse the revisions proposed by the Task Group.</p> <p>The Task Group agreed to add the new Term of Reference for the PFA Committee as follows :-</p> <p><i>The Committee shall not have the power to appoint a sub-committee to determine restructuring proposals, save in relation to any Member appointments required.</i></p>
23.	<p>Petitions Scheme including E-petition facility – Approved at Council on 15 October 2010 RE</p> <p><u>RECOMMENDED</u> To note the inclusion of this item previously approved by Council for inclusion within the Constitution.</p> <p>The Task Group noted the above.</p>
24.	<p>Members' Remuneration Scheme Site Visits allowance be reduced to £25 per person from £30 per person to allow for buffet provision prior to Development Committee meetings – approved at Council on 2 February 2011</p> <p>Item be amended to read :- <i>payment of £25 (30) be made to Development Committee Members upon attendance at site visits and £5 be allowed per person to assist with buffet</i></p>

	<p><i>provision before the committee meeting.</i></p> <p>RECOMMENDED To note the inclusion of this item previously approved by Council for inclusion within the Constitution.</p> <p>The Task Group noted the above.</p>
25.	<p>Access to Information Procedure Rules: Exempt Information</p> <p>The Monitoring Officer submitted an additional item relating to a new category of exempt information at 7C relating to the Standards Committee.</p> <p>RECOMMENDED To include the new category of exempt information at 7C relating to the Standards Committee which reads as follows :</p> <p>7C : Information presented to a standards committee, or to a sub-committee of standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under Section 58(1) (C) of the Local Government Act 2000.</p>

- (2) the proposed amendments to the Constitution be referred to the Council Meeting to be held on 20 April 2011 for approval and adoption;
- (3) it be noted that there have been two items approved for inclusion in the Constitution at Council Meetings this Civic Year and they are as follows :-
 - Petitions Scheme including E-Petitions
 - Reduction in Site Visit Allowance for Members to £25 to allow a £5 contribution to a buffet between the Site Visit and the Committee meeting
- (4) it be noted that the revised Constitution be made available electronically to Members and Officers to meet the Council's commitment to the paperlight project.

OS65. CHAIRMAN'S THANKS

The Chairman wished to place on record her thanks to Members and Officers for their support during the year.

OS66. URGENT BUSINESS

There was no urgent business.

The meeting which commenced at 5.00 p.m., closed at 5.51 p.m.

Chairman