



# Committee report

Committee	<b>ANNUAL COUNCIL</b>
Date	<b>15 MAY 2019</b>
Title	<b>APPOINTMENTS, COMMITTEE STRUCTURE AND CONSTITUTIONAL ISSUES</b>
Report of	<b>ASSISTANT DIRECTOR OF CORPORATE SERVICES AND MONITORING OFFICER</b>

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## EXECUTIVE SUMMARY

1. This report sets out a number of actions required at the Annual Council in accordance with national legislation and the constitution.

## BACKGROUND

2. In accordance with various legislative requirements and our constitution Annual Council is required in addition to those items dealt with elsewhere on the agenda for the meeting to:
  - (a) appoint at least one Scrutiny Committee and such other committees as the council considers appropriate;
  - (b) decide the size and terms of reference for those committees;
  - (c) appoint the chairman of the Scrutiny Committee and the chairman and vice chairman of any other committees or sub committees appointed by council;
  - (d) receive nominations of councillors to serve on outside bodies that are required to be appointed by the council (if any);
  - (e) re-affirm the scheme of delegation.

## APPOINTMENT OF COMMITTEES, THEIR SIZE AND TERMS OF REFERENCE

3. There are no substantial changes proposed to the establishment, size and terms of reference of those committees currently within the constitution, save for:-

### **Isle of Wight Association of Local Councils (IWALC)**

- (a) The Scrutiny Committee includes one co-opted voting town and parish council representative currently appointed by Isle of Wight Association of Local Councils (IWALC). As not all town and parish councils are a

member of IWALC the reference to IWALC be removed and it is a matter for town and parish councils collectively to identify a representative to be a member of the Scrutiny Committee.

### **Name of Scrutiny committees**

- (b) The name of the Scrutiny Committees be changed to give the public greater clarity on what each committee covers. The proposed changes are:-
- Scrutiny Committee to be known as Corporate Scrutiny
  - Policy and Scrutiny Committee for Children's Services to be known as Policy and Scrutiny Committee for Children's Services, Education and Skills.
  - Policy and Scrutiny Committee for Adult Social Care and Health to be known as Policy and Scrutiny Committee for Health and Social Care.
  - Policy and Scrutiny Committee for Regeneration, Planning, Housing and the Environment to be known as Policy and Scrutiny Committee for Neighbourhoods and Regeneration.

### Appointment of chairmen and vice chairmen of committees

4. It is for council to approve the chairmen of committees. Included at appendix A is a list of the available positions of the proposed committees. All committees and panels can appoint their own vice chairman unless the council so chooses to appoint a vice chairman.

### Nominations to outside bodies

5. All appointments to outside bodies were made after Annual Council in 2017 and positions filled in accordance with the framework. These were for the life of the council. Where a vacancy does arise as part of the framework all members will be consulted in accordance with current practice and will then be filled by the assistant director of corporate services and monitoring officer in consultation with the relevant cabinet member. Members are reminded that these should be shown on their register of interests.

### Scheme of delegation

6. The council is asked to affirm the scheme of delegation of powers (both Cabinet members and officers) as set out in the constitution (pages 73 to 86). This remains the same as for last year other than the titles for officers have been amended where appropriate to reflect the existing senior management structure of the council.

## Other constitutional issues

7. The Petition Scheme in relation to petitions of more than 2,500 signatures to be amended to provide that upon receipt of a petition, the proper officer will agree with the petition proposer, in consultation with the chairman, the wording of the motion to be put to Full Council for members to debate and vote on. That motion will then be included in the agenda for Full Council.

That the scheme is amended to give the petitioner three minutes to speak, the leader three minutes in reply. There will then be a debate for 15 minutes as is currently provided for after which the leader will have the right to sum up for two minutes. The motion will then be voted on. There will be no provision for the motion to be amended.

That petitions will only be considered if they relate to a subject matter which is within the direct control of the council (eg. not accepting a petition about another public service).

That any petition which is on the same subject matter as a current Isle of Wight Council consultation is not to be referred to council for debate. The petition will instead be referred to the relevant Cabinet member to be considered as part of the consultation.

That a petition will not be referred to the next meeting of Full Council if there is not time on the agenda, or there is a related report at another meeting.

That no more than three petitions will be considered per meeting.

8. Updating of the gifts and hospitality guidance

The gifts and hospitality guidance that applies to officers and members of the council requires updating in order to ensure that it provides clear advice and a clear process through which to monitor gifts and hospitality, whether accepted or otherwise.

9. Appointment of the section 151 officer/chief financial officer

Full Council in February 2016 agreed to the council entering into a strategic partnership with Portsmouth City Council for the provision of a chief financial officer, for three years, that officer being Mr Chris Ward. The Appointments Committee considered a report on the appointment of the section 151 officer on 30 April 2019. It was resolved to recommend to full council the appointment of Chris Ward as the council's section 151 officer. It is therefore proposed, following the recommendation of the Appointments Committee, that a further agreement be entered into to continue with this arrangement as recommended by the Appointments Panel on 30 April 2019. That the final detail of the Strategic Partnership Agreement be delegated to the Chief Executive in consultation with the Cabinet Member for Resources. The agreement will continue unless and until terminated in accordance with the provisions in the agreement which includes a 6 month notice period.

10. Amendments to the procedure rules

a) Motions on notice to Full Council (Procedure Rule 9 – para 3.1)

The time allowed at each meeting for motions shall be one hour. Each member will be limited to one motion per meeting.

Para 3.1 shall be amended to provide that motions shall only be on issues directly controlled by or that directly affect the council, not matters outside the council's control.

Each notice of motion must be clear, succinct, with no lengthy preamble, and must clearly identify the matter to be debated and have a clear question to be put.

Para 2.1 under Procedure Rule 9 will be deleted (this provided for motions directly related to the operation of the council be considered before those that do not so directly relate) as this will no longer be relevant.

b) Public questions

Written public questions to Full Council be limited to 150 words per question.

c) A Full Council meeting may continue for up to four hours. There will be no provision for an extension of time. Any remaining items of business, at the chairman's discretion, will either be referred to an extraordinary meeting, the next ordinary meeting or will simply fall for not being considered.

d) Procedural Rule 1.9 that sets out the process at Budget Council be amended to clarify that all group leaders will be afforded an opportunity to speak, regardless of whether they have submitted an alternative budget/amendment.

e) The Procedure Rules for the regulation of proceedings – Full council, Cabinet, committees and sub-committees be separated out into Full Council and, Cabinet, committees and sub-committees for ease of reference.

f) The deadline for written questions to Cabinet be changed to 48 hours from 24 to ensure sufficient time for answers to be provided. In view of the opportunity to raise questions at Cabinet and Full Council, while not part of the constitution, the dedicated email provided for members to ask questions of Cabinet members, which has rarely been used, will be closed.

11. There has been a concern raised as to whether the delegated decision process and call-in process are transparent and robust. Cabinet member delegated decisions have been re-introduced as part of the constitution for nearly two years. Delegated decision papers are included on the forward plan so that members and the public can see what decisions are due to be considered. The reports are published on the council's website, and all members sent a link to draw this to their attention. Members and the public

have five working days in which to make representations and the Cabinet member will thereafter consider those representations and decide whether to withdraw the paper, amend the decision or make the decision as recommended.

12. Once a decision has been made, a decision notice is published, again on line, and there is then a period of five working days within which a decision can be called in. The call-in process is set out in the constitution and the proper officer will consider whether the call-in request meets the requirements. Over the last two years, 32 decisions have been published. There have been five call-in requests, two accepted and three rejected. The proper officer is satisfied that the process is transparent and is also content with the process and their role in determining whether a call in has been properly made. It is not proposed therefore that this process should be changed at this relatively early stage in its reintroduction.

### STRATEGIC CONTEXT

13. Good governance arrangements are essential to the delivery of the council's services and the decision making process that supports this.

### CONSULTATION

14. As this report is not proposing any significant changes to the constitution no specific consultation has been undertaken. All members were invited at Full Council to provide suggestions on changes to the constitution.

### FINANCIAL / BUDGET IMPLICATIONS

15. There are no additional costs associated with the proposals contained in this report. The recommendations accord with the resources available within the overall budget agreed by Full Council in February 2019.
16. Under the members allowance scheme (as set out in the constitution) a number of council appointments are entitled to receive a special responsibility allowance (SRA) in recognition of undertaking a role. The council is free to determine if any of the posts should have a SRA but any changes outside of the existing scheme will need to be on the basis that they are subject to consideration by the Independent Remuneration Panel, a panel of independent external people appointed by the council which makes recommendations on members' remuneration. Any expenditure on members' allowances must be met from within the existing budget.
17. If council wish to agree to additional meetings or change the committee structure or limit existing delegations to officers significantly, the resource implications will have to be assessed to be taken into account before any final decision on implementation can be taken.

### LEGAL IMPLICATIONS

18. The council is required to adopt a constitution by virtue of the Local Government Act 2000.

19. It is a matter for Full Council to agree any amendment to the constitution.

## EQUALITY AND DIVERSITY

20. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is not considered that the content of this report has any negative impact on any of the protected characteristics.

## OPTIONS

### 21. Appointment of committees

**Option 1:** To agree that the existing arrangements (as set out in the Constitution) remain but that the following amendments be made: -

#### (a) **Isle of Wight Association of Local Councils (IWALC)**

Within the Terms of Reference for the Scrutiny Committee, the reference to IWALC appointing a member to the Scrutiny Committee be removed and it to be a matter for the town and parish councils to identify a representative to be a member of the Scrutiny Committee.

#### (b) **Name of Scrutiny committees**

The name of the Scrutiny Committees be changed to :-

- Corporate Scrutiny
- Policy and Scrutiny Committee for Children's Services, Education and Skills.
- Policy and Scrutiny Committee for Health and Social Care.
- Policy and Scrutiny Committee for Neighbourhoods and Regeneration.

**Option 2:** To agree that the existing arrangements (as set out in the Constitution) remain;

### 22. Appointment of chairman and vice chairman of committees

**Option 1:** To appoint the chairmen, and where required, vice chairmen to the positions contained in appendix A.

**Option 2:** Not to appoint to these positions and allow each committee to appoint a chair for the meeting each time they are convened.

23. Scheme of delegation

**Option 1:** To agree the scheme of delegation as set out at pages 73 to 86 of the constitution.

**Option 2:** To agree an amended scheme of delegation.

24. Petition Scheme

**Option 1:** The Petition Scheme in relation to petitions of more than 2,500 signatures be amended to provide that upon receipt of a petition, the proper officer will agree with the petition proposer, in consultation with the chairman, the wording of the motion to be put to Full Council for members to debate and vote on. That motion will then be included in the agenda for Full Council.

That the scheme is amended to give the petitioner three minutes to speak, the leader three minutes in reply. There will then be a debate for 15 minutes as is currently provided for after which the leader will have the right to sum up for two minutes. The motion will then be voted on. There will be no provision for the motion to be amended.

That petitions will only be considered if they relate to a subject matter which is within the direct control of the council (not lobbying of central government for example).

That any petition which is on the same subject matter as a current Isle of Wight Council consultation is not to be referred to council for debate. The petition will instead be referred to the relevant cabinet member to be considered as part of the consultation.

That a petition will not be referred to the next meeting of Full Council if there is not time on the agenda, or there is a related report on a later agenda.

That no more than three petitions will be considered per meeting.

**Option 2:** Not to amend the Petition Scheme.

25. Motions on notice to Full Council (Procedure Rule 9 – para 3.1)

**Option 1:** The time allowed at each meeting for motions shall be one hour. Each member will be limited to one motion per meeting.

Para 3.1 shall be amended to provide that motions shall only be on issues directly controlled by or that directly affect the council, not matters outside the council's control.

Each notice of motion must be clear, succinct, with no lengthy preamble, and must clearly identify the matter to be debated and have a clear question to be put.

Para 2.1 under Procedure Rule 9 will be deleted (this provided for motions directly related to the operation of the council be considered before those that do not so directly relate) as this will no longer be relevant.

**Option 2:** Not to amend motions on notice.

26. Public questions

**Option 1:** That a written public question to Full Council be limited to 150 words per question.

**Option 2:** Not to limit the number of words in a public written question.

27. Length of a Full Council meeting

**Option 1:** A Full Council meeting may continue for up to four hours. There will be no provision for an extension of time. Any remaining items of business, at the chairman's discretion, will either be: referred to an extraordinary meeting, or the next ordinary meeting or will simply fall for not being considered.

**Option 2:** Not to amend the rules affecting the length of a Full Council meeting.

28. Budget Council

**Option 1:** That Procedural Rule 1.9 be amended to clarify that all group leaders will be afforded an opportunity to speak, regardless of whether they have submitted an alternative budget/amendment.

**Option 2:** Not to amend Procedural Rule 1.9.

29. Separation of Procedure Rules

**Option 1:** That the Procedure Rules for the regulation of proceedings – Full Council, Cabinet, committees and sub-committees be separated out into Full Council and, Cabinet, committees and sub-committees for ease of reference.

**Option 2:** Not to separate the Procedure Rules for the regulation of proceedings.

30. Members written questions to Cabinet

**Option 1:** The deadline for members written questions to Cabinet be changed to 48 hours from 24 hours.

**Option 2:** Not to change the deadline for members written questions to Cabinet.



31. Gifts and hospitality guidance – update

**Option 1:** To approve the updated gifts and hospitality guidance which is attached at appendix B.

**Option 2:** Not to approve the updated gifts and hospitality guidance.

32. Appointment of section 151 officer/chief financial officer

**Option 1:** To accept the recommendation of the Appointments Panel on 30 April 2019 to enter into a further strategic partnership agreement with Portsmouth City Council for the provision of a chief financial officer/section151 officer, namely Mr Chris Ward. That the final detail of the Strategic Partnership Agreement be delegated to the Chief Executive in consultation with the Cabinet Member for Resources.

**Option 2:** Not to accept the recommendation of the Appointments Panel and to consider an alternative proposal for the appointment of the statutory role of Section 151 officer/chief financial officer.

33. THAT the monitoring officer be authorised to amend the constitution to reflect any agreed changes.

RISK MANAGEMENT

34. The majority of the recommendations are to ensure that the council meets its corporate governance requirements and responds to changing requirements and demands. The appointment of the section151 officer is a statutory role. These should lessen the risks arising from any challenge to the decision making process by way of judicial review or other such legal action.

EVALUATION

35. The recommendations will update the constitution particularly in relation to the Petition Scheme and Budget Council where clarity was required to ensure a clearly understood governance system. The appointment of a section151 officer is a statutory requirement and one that must therefore be considered. An effective governance system for the council is essential to enable business to be transacted openly and in a timely manner. The appointment of the various committee chairmen and the implementation of the supporting processes seeks to do this. Not appointing a chairman will lead to unnecessary time being spent on electing a chair for each meeting and may not provide consistency.

RECOMMENDATION

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33. THAT the monitoring officer be authorised to amend the constitution to reflect any agreed changes.

APPENDICES ATTACHED

[Appendix A – List of council committees, sizes and chairman.](#)

[Appendix B – Gifts and hospitality guidance – revised.](#)

BACKGROUND PAPER

[Isle of Wight Council Constitution](#)

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