

Minutes

Corporate Governance Group

3rd March 2021 at 7.15pm



Present

Councillors	Present	Councillors	Present
P Euesden	Yes	R van Dulken (Chairman)	Yes
D Hume	Yes	D Wallace	Yes
H Johnson (Vice-Chairman)	Yes	T Walsh	Yes
D Mann	Yes	Mrs L Walters	Yes
Miss V Santomauro	Yes		

In attendance:

Kim Cole Head of Governance and Monitoring Officer
Jessica Mann Governance and Members Officer
Emma Wisbey Governance and Members Manager

73 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

74 **MINUTES**

INFORMATION: The Minutes of the meetings of the Corporate Governance Group held on 20th January 2021 and on 26th January 2021 were approved as a correct record.

75 **PUBLIC QUESTION TIME**

INFORMATION: There were no questions asked, or statements made.

76 **CONSTITUTION REVIEW**

INFORMATION: Members gave consideration to a report which pertained to the next stage of the Council's Constitution and Governance review. The report marked the commencement of the review of Chapter 2: Part 2 (The Procedure Rules) and of Chapter 3 (The Codes and Schemes). The Head of Governance then proceeded to explain the main changes that had emerged in respect of Chapter 2 (Part 2) of the Constitution. Throughout the duration of the report, the Head of Governance sought the views of Members in relation to each element of the proposed changes to Chapter 2 (Part 2) and Chapter 3 of the Constitution.

Overview and Scrutiny Procedure Rules

It was reported that the practice undertaken by the Council with regard to reports arising from Scrutiny Reviews differed from the practice outlined within the current Constitution. Currently, the practice was that the report was taken to Council before being formally accepted by Cabinet, and then returned with Cabinet's response to Council. However, the only statutory requirement for such reports to be presented at Full Council was if there were any budgetary implications arising from the recommendations made. In light of the Council's desire to raise the profile of its Scrutiny Function, it was proposed that going forward, the reports be presented to Cabinet for consideration in the first instance and then Council, together with Cabinet's formal response. The Current Constitution also gave provision for the Leader or Cabinet Member who held responsibility for the topic being scrutinised to consider the scrutiny report and attend the Scrutiny Committee to deliver their response; however, this meant that the report would not be considered by Cabinet, nor was there the ability for others to participate in the debate. Therefore, it was suggested that the paragraph be removed in order to allow consideration of a scrutiny report by the Cabinet as a whole. With regard to the Council's Call-In provisions, this had been updated in order to ensure that the process was robust with clearly defined parameters.

Members were informed that a new section within the Constitution entitled 'Councillor's Call for Action' (paragraph 9) had been added as a means through which they could raise issues of local community concern for consideration by the Council's Scrutiny Committees on behalf of residents, and would only be raised where other means of resolving the matter had been exhausted. However, initial feedback on the proposal was that the process was unclear; additionally, it was felt that there was already extensive engagement between Members and Officers and as such, the incorporation of a new process would be unnecessary. It was subsequently proposed that the 'Councillor's Call for Action' be removed from the Constitution.

The Council's Budget and Policy Framework

There was one change highlighted to Members which concerned the deadline under which a Council meeting must be called where the Leader of the Council disagreed with any changes made in its adoption of the Framework. It was proposed that the deadline be extended from six to ten working days in order to allow Officers and Members an adequate timeframe in which to prepare the necessary reports ahead of the agenda publication.

Chapter 3 – The Codes and Schemes

In respect of the Member Code of Conduct, Members were reminded that the Model Code of Conduct gained approval from the LGA Board in early December 2020 and was then circulated to Local Authorities on 23rd December 2020. The intention by the LGA was that each Authority would be free to adopt the new Model Code and to make local tweaks if required. In addition, the LGA had undertaken a consultation with the Local Authorities within Essex, and there was a combined desire for all the Authorities in Essex to use this as an opportunity to agree to one 'Code' for the County.

After having reviewed the Model Code, there was a unanimous view that some sections had been poorly drafted, such as the declarations of interests. The Model Code, together with the DPI provisions in the Localism Act 2011, had resulted in six types of interest; it was felt that this was unnecessarily complicated and confusing, and contradicted the

purpose of having a single Model Code. The LGA had accordingly been approached to invite them to reconsider the wording and issue a revised version of the Model Code; however, if the LGA were not minded to do so, the intention was for the Essex Authorities to agree an 'Essex Code' that could be adopted by all of the Essex Authorities. Until the position had been clarified, or a new Essex Code drafted, it was not considered an appropriate time in which to undertake a review of the current Member Code of Conduct. The recommendation was therefore to maintain the current Member Code of Conduct within the new Constitution until such a time that the new Essex Code could be brought forward for adoption by Council later in the year.

Members were advised that the current Constitution also included an Officer Code of Conduct which set out the expectations for Officer behaviours and the principles around gifts and hospitality, political neutrality and linked in with the Nolan Principles. Further to consultation undertaken with the Council's HR team, it was confirmed that the information contained within this section had also been captured within HR Policy documents. It was proposed that the Council remove the Officer Code of Conduct from the Constitution, as had been done by other Authorities, on the basis that the HR Policy documentation was the first landing place in terms of officer management and included greater detail and clarity than that within the Constitution.

Members were informed that the purpose of the Protocol on Member and Officer relationships was to enhance the working relationships of the Council. The Protocol reflected the principles underlying the Member Code of Conduct and the Principles of Public Life. The shared objective was to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct. The purpose of the Protocol was to provide clarification on key aspects of the roles of Members and Officers, not to duplicate the provisions already contained elsewhere in the Constitution. It was advised that there had been no significant changes made to the Protocol; the only changes made included additional provisions around Member and Officer roles, the removal of duplication and the inclusion of provisions relevant to decision making and the receipt of officer advice.

In respect of guidance around gifts and hospitality, this was designed to support the corresponding provisions as set out in the Member Code of Conduct. In light of the requirement to retain the current Member code of Conduct, it was proposed that the gift and hospitality guidance be maintained; however, once the new Member Code of Conduct had been approved, the guidance would be reconsidered by the Monitoring Officer who would incorporate proposals where necessary on any revisions required.

The Member Allowance Scheme was required to be reviewed at least every four years. The current Scheme was last reviewed by the Independent Remuneration Panel (IRP) in 2019 and reflected the recommendations that had arisen from that review. Due to the impact of the Covid-19 Pandemic, it was not possible for the IRP to undertake a review of the Scheme within the current municipal year. As such, the only changes made to the Scheme were to reflect the provisions within the Local Authorities (Members' Allowances) (England) Regulations 2003 and to update the terminology in order to ensure there was a consistent approach throughout the Constitution.

Lastly, there were a few additional items to note; currently, the Constitution included a Code of Practice for Members and Officers engaged in planning applications. Officers were requested to review the content of the document in order to determine whether it remained relevant to the practices within the Council, especially in light of the changes to the Planning Delegations and considerations around the Members' Forum. It was felt that

the provisions within the document revolved more around supporting the governance processes defined in the Constitution, and it was proposed that the Code of Practice would be more beneficial as a standalone document, should it still be considered relevant going forward.

The Council was also committed to the seven principles of Good Governance, as agreed by the Chartered Institute of Public Finance Accountancy and the Society of Local Authority Chief Executives. In order to support those principals and those within the Constitution, it was proposed that there be a 'Code of Governance' which would exist alongside the Council's Constitution as a separate document. It was intended that the document would underline those principles and be comprised of a framework of policies, procedures, behaviours and values by which the Council was controlled, and thus provide the structure and guidance that Members and Officers required in order to ensure there was effective governance across the organisation. There would also be the option to include additional policy documents in future if it became relevant to do so.

In respect of next stages of the Constitution Review, Members were advised that there were three sections yet to be presented to the Committee for consideration: these were the new Chapter 4, which regarded the Council's responsibilities and functions; the Contract Procedure Rules (currently within Chapter 2) and the Financial Procedure Rules. As a result, the original deadline for the presentation of the revised Constitution to Full Council on 29th March 2021 would not be achieved. It was subsequently agreed that the revised Constitution would instead be presented at Full Council on 19th April 2021.

DECISION: That Members:-

1. Noted the proposed changes, and;
2. Agreed that comments and suggested amendments would be considered by the Monitoring Officer and incorporated where necessary ahead of approval by Full Council.

REASON FOR DECISION: To agree to the proposed changes of the Constitution, in order to ensure more efficient governance arrangements and bring certainty to its decision making and comply with the Council's Statutory requirements.

The meeting commenced at 7.15pm and closed at 8.11pm.

Councillor R van Dulken
(Chairman)