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Subject to approval at the next Constitution Working Party meeting

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CONSTITUTION WORKING PARTY

21 October 2024 at 6.00 pm

Present: Councillors Yeates (Chair), Bower and Haywood.

1. APOLOGY FOR ABSENCE

An Apology for Absence had been received from Councillor Purser.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

3. MINUTES

The minutes of the last meeting of the Working Party held on 15 April 2024 were approved as a correct record and signed by the Chair.

4. ITEMS NOT ON THE AGENDA THAT THE CHAIR OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

The Chair confirmed that there were no urgent matters for this meeting.

5. WORKING PARTY START TIMES

As this was the first meeting of the Working Party in this Municipal Year, the Working Party

RESOLVED

That its start times for the remainder of 2024/25 be 6.00 pm.

6. RECOMMENDATION FROM THE SPECIAL MEETING OF THE ECONOMY COMMITTEE - 12 SEPTEMBER 2024

The Working Party received the minutes from the Special Meeting of the Economy Committee held on 12 September 2024 and were alerted to a recommendation to consider at Minute 210 [Work Programme].

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The recommendation was asking the Working Party to review the frequency of meetings for the Economy Committee. It was explained by the Committee Services Manager and the Group Head of Law & Governance and Monitoring Officer that in preparing for the change in structure to a Committee System in 2021, Full Council had approved the frequency of meetings for the newly established Service Committees. This was confirmed as five meetings per year, apart from the Economy and Corporate Support Committees, with 4 meetings per year. Since that time, the Economy Committee had struggled to accommodate its workload with just 4 meetings resulting in several Special Meetings being held each year.

It was emphasised that in setting the Calendar of Meetings each year and planning the workload of the officer team it would be beneficial to confirm the number of required meetings in advance and to not have to rely upon organising special meetings.

Following discussion, it was confirmed that if the Working Party recommended increasing the frequency of meetings from 4 to 5, the change would apply following the Annual Council Meeting in 2025. There were views expressed in terms of whether consideration of this recommendation should form part of the review of the Committee system which was the next item on the agenda and as that review would address some of the feedback received about the number of reports containing 'to note' recommendations as well as the workloads of some Committees.

The Working Party

RECOMMEND TO FULL COUNCIL

That the frequency of meetings for the Economy Committee in each municipal year be increased from 4 to 5 meetings with this taking effect from the Annual Council Meeting on 21 May 2025.

7. REVIEW OF THE COMMITTEE SYSTEM

The Working Party received a report from the Group Head of Law & Monitoring Officer which was seeking endorsement to commence a review of the Council's committee system of governance allowing any adaptations or improvements to be made in time for the 2025/26 municipal year.

Since the introduction of the committee system in May 2021, the Council had periodically amended the Constitution, following recommendations made by the Constitution Working Party, to reflect procedural and operational needs and to respond to issues and suggestions from Members and Officers. No comprehensive review of the new structure had taken place since 2021 to assess the effectiveness of the system or how it could be developed further. Since arriving in post in July 2024, the Chief Executive had met with all political group leaders and the Chairs and Vice-Chairs of all Committees to obtain their views on the committee system.

The feedback received from Members through those discussions held with the Chief Executive and regular interaction with Monitoring Officer had been listed in the report at Paragraph 4.8. It was proposed that a review of the committee system should take place with the areas highlighted forming the focus of the review. If endorsed, the review would be conducted by the Monitoring Officer using the channels set out in Paragraph 4.10 of the report with regular reporting back to the Working Party to review progress. It was confirmed that this review would not include any consideration of returning to the Leader and Cabinet form of governance.

In discussing the report, there were varying viewpoints expressed. One Member strongly believed that the review needed to include an assessment of whether returning to the Leader and Cabinet form of governance might be more appropriate for the council in the future, linking into the work starting to take place in reviewing Councillor numbers as part of the electoral review being overseen by the Corporate Support Committee. The Monitoring Officer confirmed that this review would not include considering any return to reverting to the cabinet system. The electoral review project's timeline and key target dates were working to that review being concluded to allow any change in Councillor numbers to be confirmed in time for the District Elections in May 2027. The Local Government Boundary Commission for England could also not advise what structure the Council should have in place relative to Councillor numbers.

Turning to the feedback received that would form some of the key areas to be reviewed, there was concern expressed that the substantial points listed had evolved from discussions had with just a small percentage of Councillors. If further engagement to include all Councillors was planned, this could result in too many issues to consider in a relatively short period of time.

The priority areas requiring review were highlighted by the Monitoring Officer being the lack of an identified scrutiny function and an effective call in/recovery system that could be practically operated. The review would also ensure that the committee system was as effective and efficient as possible. In terms of conducting an all-member survey, a request was made to consider how this might be conducted as an all on-line method did not always provide healthy responses. A request was made to conduct face to face forums. This was noted and it was confirmed that such meetings had been included in the list of engagement channels identified within the report.

The Working Party

RESOLVED – That

- (1) It endorses the Head of Paid Service and Monitoring Officer's proposed review of the committee system; and
- (2) The areas of focus for the review as set out in the report be confirmed together with the process and methods of engagement as discussed.

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8. UPDATES TO THE COUNCIL'S CONSTITUTION

The Working Party received a report from the Group Head of Law & Governance and Monitoring Officer asking Members to approve two amendments to the Council's Constitution.

The first change related to a permanent delegation that had been given to the Group Head of Finance and Section 151 Officer and Chief Executive by the Policy and Finance Committee (Minute 326 – Policy & Finance Committee – 26 October 2023) regarding the West Sussex Business Rates Pool.

This was *“The Committee agrees to delegate authority to the Section 151 Officer and the Chief Executive Officer in consultation with the Chair of the Policy & Finance Committee to decide future participation in any West Sussex Business Rates Pool”*.

It was explained that this delegation should be further formalised as part of the Chief Finance Officer delegations to ensure that in future years the delegation would not necessitate referral back to the minutes of an historic meeting it or when personnel changes arose in the future.

The Working Party agreed to this update.

The second change related to The Joint Staff Consultative Panel. The Chief Executive had been reviewing the Constitution with the Monitoring Officer and Chief Finance Officer to ensure that the Council's governance arrangements were as robust as possible and to ensure that the Council was always acting lawfully. As part of this review, the Chief Executive was of the view that this Panel conducted functions that were her responsibility and were part of her statutory role as Head of Paid Service and so blurred the line between what was the responsibility of the Chief Executive in the statutory role and the more limited functions of Councillors in relation to employment matters.

The Working Party was asked to approve the removal of the Joint Staff Consultative Panel from the Constitution and in its place the Chief Executive would create a regular Union Consultation meeting between staff union members and the Chief Executive through which engagement with the Union would take place. It was confirmed that UNISON had been consulted on the proposals as had the Chair and Vice-Chair of the Corporate Support Committee who attended the Joint Staff Consultation Panel. No concerns had been forwarded for action.

The Working Party

RECOMMEND TO FULL COUNCIL – That

(1) The delegated Authority given to the Section 151 Officer and Chief Executive Officer in consultation with the Chair of the Policy & Finance Committee to decide future participation in any West Sussex Business Rates Pool be formalised within the Council's Constitution as part of the Chief Finance Officer delegations within the Officer Scheme of Delegation at Part 7, Section 2 (delegations to the Group Head of Finance); and

(2) The Joint Staff Consultative Panel be disbanded and any reference to it removed from the Constitution.

9. PROTOCOL FOR COUNCILLOR CONTACT WITH APPLICANTS, DEVELOPERS, CONTRACTORS, AGENTS AND INVESTORS

The Working Party received a report from the Group Head of Law & Governance and Monitoring Officer asking it to introduce a protocol to support Councillors in understanding the approach and behaviour that was expected when dealing with third parties in the planning process. This Protocol also aimed to protect all Councillors, the public and Council officers whilst providing assurance of the impartiality and transparency of decision-making processes governing planning, thus creating and maintaining public confidence in those processes.

The Council's Planning Protocol at Part 8, Section 3 of the Constitution contained limited references around Councillors attending meetings with developers (at paragraphs 9.2 (iii) and (iv)). It had been identified across the Corporate Leadership Team (CLT) that there should be comprehensive guidance to support Councillors when they received contact from a range of third parties which should sit separately to the Planning Protocol. The new Protocol aimed to be a document that could be easily understood by Councillors, Officers and third parties whilst providing levels of reassurance as it complied with national guidance, best practice and drew on experiences nationally where issues had arisen in this area and where lessons had been learned as a result.

The Protocol intended to explain and supplement the Members' Code of Conduct and had been attached to the report at Appendix 1. Annexe 1 was a Protocol covering informal presentations to Councillors relating to development and provided detailed supplementary guidance to Councillors and third parties on attending such presentations. As with the main document it applied to all areas of the Council's business, including both planning and property functions. Both documents aimed to provide some consistency in terms of how varying requests should be handled.

Following brief discussion, and having endorsed the Protocol fully, the Working Party

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RECOMMEND TO FULL COUNCIL – That

(1) It endorses and approves the 'Protocol for Councillor contact with Applicants, Developers, Contractors, Agents and Investors' with the Protocol being included within the Council's Constitution; and

(2) Future reviews of the Protocol are conducted by the Standards Committee.

(The meeting concluded at 7.11 pm)