

# Public Document Pack

Subject to approval at the next Constitution Working Party meeting

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## CONSTITUTION WORKING PARTY

9 September 2019 at 4.30 pm

Present: Councillors Mrs Yeates (Chairman), Mrs Gregory (Vice-Chairman), Bennett, Bower, Cooper, Mrs Haywood and Mrs Madeley.

### 1. APOLOGY FOR ABSENCE

An Apology for Absence had been received from Councillor Mrs Catterson.

### 2. DECLARATIONS OF INTEREST

Councillor Mrs Yeates declared a Personal Interest in Agenda Item 7 (Constitutional Amendments – Part 4 – [Officer Scheme of Delegation] for the Crime and Disorder Act 1998 and the Anti-Social Behaviour, Crime and Policing Act 2014 in view of her position as Cabinet Member for Community Wellbeing.

### 3. MINUTES

The Minutes from the meeting of the Working Party held on 28 November 2018 were approved by the Working Party as a correct record and were signed by the Chairman

### 4. START TIMES

The Working Party

RESOLVED

That its start times for meetings for the remainder of 2019/20 be 4.30 pm.

### 5. CONSTITUTIONAL AMENDMENTS - OFFICER EMPLOYMENT RULES

In the absence of the Group Head of Council Advice and Monitoring Officer, the Chief Executive presented this report and explained that the review of this section of the Constitution had been undertaken to take account of changes to legislation since the Rules had originally been drawn up. As this part of the Constitution had not been reviewed for some years a complete re-write had been necessary to also consider best practice and Joint Negotiating Committee (JNC) guidance.

The report explained the changes relating to each of the recommendations proposed and Appendix 1 set out the replacement text for Part 6 [Procedure Rules (Other), Section 7 [Officer Employment Rules]. It was outlined that the changes would make the business of managing staff more straight forward from a day-to-day operational perspective.

Following some discussion, the Working Party

RECOMMEND TO FULL COUNCIL – That

(1) The proposed changes to the Constitution at Part 6 [Procedure Rules (Other)], Section 7 [Officer Employment Rules] as set out in the replacement text at Appendix 1, as attached to the minutes, be approved;

(2) Article 4, paragraph 2.0(o) be amended to add the words shown in bold below:

“Approving the dismissal **in a disciplinary matter** of the Head of Paid Service (Chief Executive), Directors, Section 151 Officer and Monitoring Officer based on a recommendation from the Statutory Officers’ Investigatory and Disciplinary Committee;

(3) Article 4, paragraph 2.0(p) be amended to remove the words crossed through and add the words shown in bold:

“Approving terminations of service of the Head of Paid Service (Chief Executive) ~~and Directors~~ in respect of early/~~flexible~~ retirement and/or redundancy within the framework of restructuring proposals, **and any changes to the postholder’s terms and conditions in response to a request for flexible retirement.**”

(4) Amend Part 4 (Officer Scheme of Delegation), Section 2 (Chief Executive and Directors), paragraph 2.0 (Chief Executive) to add a further paragraph as shown in bold to read:

a. **Settlement Agreements**

- i. **to agree terms for Settlement Agreements up to a cost to the Council of £50,000 in consultation with the Section 151 Officer;**
- ii. **to agree terms for Settlement Agreements up to a cost to the Council of £95,000 in consultation with the Leader of the Council, Leader of the Opposition and Section 151 Officer; and**
- iii. **to submit a report to Full Council for consideration on settlements of more than £95,000.**

(5) Amend Part 4 (Officer Scheme of Delegation), Section 3 (Group Heads), paragraph 2.1 (Group Head of Corporate Support) to replace the word “Compromise” with “Settlement” in the title and text; and amend the figure of “£10,000” to read “**£25,000**”. To also replace the last sentence with the words “**Settlements of more than £25,000 may be considered by the Chief Executive or Full Council dependent on their value as confirmed in Part 4 (Officer Scheme of Delegation, Section 2 (Chief Executive and Directors) and Article 4 (Functions of Full Council).**”

(6) Amend Article 4 (Functions of Full Council) to add a further paragraph as shown in bold to read:

a. **Approving Settlement Agreements of more than £95,000.**

(7) Amend Part 3 (Responsibility for Functions), paragraph 8.6 (Staff Appeals Panel) as shown crossed through and in bold below:

- a. *At the 1<sup>st</sup> bullet point* - Any financial settlement up to a limit of ~~£10,000~~ **£25,000** for an individual claim to a compensatory payment. All financial claims relating to a regrading claim require a decision of Full Council where a supplementary estimate is needed; and
- b. *At the 2<sup>nd</sup> bullet point* – “The non-financial terms for a confidentiality agreement or ~~compromise~~ **settlement** agreement to settle a matter.”

(8) The Group Head of Council Advice & Monitoring Officer be authorised to make any further consequential changes to the Constitution.

6. CONSTITUTIONAL AMENDMENTS - PART 4 (OFFICER SCHEME OF DELEGATION) FOR CRIME AND DISORDER ACT 1998 AND THE ANTI-SOCIAL BEHAVIOUR , CRIME AND POLICING ACT 2014

The Working Party received a report from the Group Head of Community Wellbeing which sought authority to make changes to the Constitution in respect of decision making on matters relating to the Council’s response to crime, disorder and anti-social behaviour. Currently, the Cabinet Member for Community Wellbeing had responsibility for making all decisions on such matters. To facilitate the operational requirements of application and enforcement, it was proposed that responsibility for these functions and associated two legislative acts be delegated to Senior Officers, under the Council’s Officer Scheme of Delegation. The Cabinet Member would then continue to retain responsibility for Policy decisions under the legislation.

In considering the recommendations, questions were asked relating to Recommendation (2) (a) in terms of the who would be given delegated authority in the absence of the Chief Executive. The Working Party was not against the proposed change, as it could see that this would provide the Council with extra capacity to respond to such operational matters. It was felt that the word, **their nominees**, needed to be more clearly defined. Following discussion, the Working Party agreed that the following wording be added to their nominees to read “these being members of the Senior Management Team [the Corporate Management Team and Group Heads].

The Working Party, then

RECOMMEND TO FULL COUNCIL – That

The following Constitutional amendments be agreed:

(1) Part 3 (Responsibility for Functions), Section 3 (Cabinet Member Responsibilities) amend point (8) under the Cabinet Member for Community Wellbeing's specific responsibilities to add the word shown in bold:

a) To make **policy** decisions on all matters arising from the Council's statutory responsibilities under the Crime and Disorder Act 1998 and the Anti-social behaviour, Crime and Policing Act 2014".

(2) Part 4 (Officer Scheme of Delegation), Section 2, Sub-Section 2.0 (Chief Executive), paragraph 2.24 is amended as follows – additions are shown in bold and deletions crossed through:

a) Pursuant to the Anti-social Behaviour, Crime and Policing Act 2014 power to issue Closure Notices for up to a maximum period of 48 hours and the power to delegate authority to other officers within the authority for the purpose of issuing closure notices for up to a maximum period of 48 hours. In the absence of the Chief Executive this authority is delegated to ~~the Director of Services~~ **their nominees, these being members of the Senior Management Team [the Corporate Management Team and Group Heads].**

b) Subject to 2(a), delete paragraph 3.16 at Part 4 (Officer Scheme of Delegation), Section 2, Sub-Section 3.0 (Director of Services).

c) Delete paragraph 3.15 at Part 4 (Officer Scheme of Delegation), Section 2, Sub-Section 3.0 (Director of Services).

(3) Part 4 (Officer Scheme of Delegation), Section 3 (Group Heads), paragraph 4.1 (Group Head of Community Wellbeing) is amended as follows:

a) Subject to 2(a), delete paragraph 4.1.2.

b) Insert new paragraph to read: **To appoint local Business Wardens that are accredited with the Community Safety Scheme as authorised persons for the purposes of Section 63(1) of the Anti-social Behaviour Crime and Policing Act 2014.**

(4) Part 4 (Officer Scheme of Delegation), Section 3 (Group Heads) is amended as follows:

a. At paragraph 3.2 (Group Head of Technical Services) insert new paragraph to read: **"To issue written warnings prior to issuing Community Protection Notices, Community Protection Notices and Fixed Penalty Notices under the Anti-social Behaviour, Crime and Policing Act 2014".**

b. Subject to 2(a), delete paragraph 3.2.10.

c. At paragraph 4.2 (Group Head of Residential Services) insert new paragraph to read: **“To issue written warnings prior to issuing Community Protection Notices, Community Protection Notices and Fixed Penalty Notices under the Anti-social Behaviour, Crime and Policing Act 2014”**.

d. At paragraph 4.3 (Group Head of Neighbourhood Services) insert new paragraph to read: **“To issue written warnings prior to issuing Community Protection Notices, Community Protection Notices and Fixed Penalty Notices under the Anti-social Behaviour, Crime and Policing Act 2014”**.

(5) The Monitoring Officer is authorised to make further consequential changes to the Constitution arising from the implementation of recommendations 1 – 4 above.

7. ARUN DISTRICT COUNCIL'S MEMBERS' ALLOWANCES SCHEME - GUIDANCE

The Working Party received a report from the Committee Services Manager stating that following adoption of a new Members' Allowances Scheme by Full Council on 17 July 2019, the Member Allowances Regulations 2003 required all local authorities to have a Members' Allowances Scheme published as part of their Constitution.

The Working Party was being asked to approve that the guidance set out in the Appendices attached to the report be added to Part 9 of the Council's Constitution,

The Working Party

RECOMMEND TO FULL COUNCIL

That the guidance set out in the Appendices attached to these Minutes be added to Part 9 of the Constitution – Members' Allowances.

8. CONSTITUTIONAL AMENDMENTS - PART 5 - RULES OF PROCEDURE (MEETINGS) - SECTION 1 - COUNCIL PROCEDURE RULES

The Working Party received a report from the Committee Services Manager seeking authority to make amendments to Part 5 of the Constitution – Rules of Procedure (Meetings) by adding in a new Rule 4.3 – entitled Special Meetings to Confer the Title of Honorary Alderman at Paragraph 4 (Special Meetings of the Council).

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It was explained that as required by Section 249 of the Local Government Act 1972, no other business shall be conducted at such meetings. Council Procedure Rule 4.2 set out what each Special meeting of the Council would cover in its agenda. The Working Party agreed that for Special Council meetings organised to confer the title of Honorary Alderman, these should be one item meetings to allow the civic and ceremonial elements of the meeting to be enjoyed in a unique way.

The Working Party, therefore

RECOMMEND TO FULL COUNCIL – That

(1) Approval be given to a new Rule 4.3 being added at Part 5 of the Constitution – Rules of Procedure (Meetings) – Section 1 – Council Procedure Rules to read as set out below:

**SPECIAL MEETINGS TO CONFER THE TITLE OF HONORARY ALDERMAN**

A Special meeting of the Council may be called by the Chief Executive in consultation with the Chairman of the Council and Political Group Leaders to consider conferring the title of Honorary Alderman on a former Councillor who meets the Council's agreed protocol.

At such meetings, the business to be followed will be:

- (1) Election of Chairman/Vice-Chairman [if not present]
- (2) Declarations of Interest
- (3) Conferment of the title of Honorary Alderman

As required by Section 249 of the Local Government Act 1972, no other business shall be conducted at such a meeting.

(2) Agree that the Group Head of Council Advice and Monitoring Officer be authorised to make any further consequential changes to the Constitution.

9. DATE OF NEXT MEETING

The Working Party

RESOLVED

That the date of its next meeting would be Wednesday, 23 October 2019 at 4.30 pm.

(The meeting concluded at 5.07 pm)