



Reigate & Banstead
BOROUGH COUNCIL
Banstead | Horley | Redhill | Reigate

SIGNED OFF BY	Head of Legal and Governance
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TO	Executive
DATE	Monday, 18 March 2019
EXECUTIVE MEMBER	Leader of the Council

KEY DECISION REQUIRED	Yes
WARDS AFFECTED	(All Wards)
SUBJECT	Governance Task Group (Constitution)

RECOMMENDATIONS
<p>(1) That the definition of a Key Decision, set out in Article 14 (14.3.2 – 14.3.4) of the Constitution should remain unchanged.</p> <p>(2) That the membership of the Overview and Scrutiny Committee remain at 15 Members.</p> <p>(3) That the membership of the Licensing and Regulatory Committee be reduced to 12 Members.</p> <p>(4) That the existing arrangements for Licensing and Regulatory Sub-Committee Chairs remain at 5 (the existing number).</p> <p>(5) That Members of the Executive be not allowed to be members or substitutes of the Planning Committee and that the Constitution be amended to reflect this.</p> <p>(6) That Members of the Planning Committee be not allowed to participate as Members of the Committee nor vote on any matters that relate to their own Wards and that the Constitution be amended to reflect this.</p> <p>(7) That the role of Ward Members at Planning Committee be changed to strengthen and formalise the role with the ability to make representations on behalf of their Ward constituents, with clarification provided in the Constitution on the following:</p>

- a. **Providing any Ward Members with a time-limited opportunity (i.e. 3 minutes per Member with the Chair's discretion to adjust the time allowed and the frequency of contributions to the meeting) for input on each application considered by the Committee, requesting (but not moving) reasons for refusal* and attendance at site visits.**

** A summary of how this would work in practices is:*

- *Ward members can request reasons for refusal but not move motions.*
- *Reasons for refusal would only be provided to the Member requesting them.*
- *The content of those reasons for refusal (requested by ward members) can be put to the Planning Committee during their dedicated speaking slot.*
- *The Chairman should maintain an independent role and therefore would not propose reasons for refusal motions on behalf of ward members.*
- *Committee members may ask for reasons for refusal to be moved and voted upon, which may include those requested by Ward Members. In the event that no reasons for refusal are moved and the Committee do not agree the Officer Recommendation (e.g. to grant permission) then the matter would stand referred to the next meeting of the Committee for re-consideration.*

- b. **A reserved seat be provided in the Chamber for use by Ward Members (including Planning Committee Members who are not able to take up their Committee seat if the application relates to their Ward), to advocate on behalf of their Ward on each relevant application.**

- c. **That the Planning Committee be requested to review its Planning Protocol to consider introducing wider scope for questioning / speaking at meetings (including the public) and to reflect a. and b. above.**

(8) That:

- a. **That the Officer Scheme of Delegation be amended to increase the delegation to the Head of Service with responsibility for Planning to determine applications for commercial works not exceeding 250 sqm.**
- b. **That it be noted that the principle of referring matters to the Planning Committee, as set out in the Planning Protocol, would apply to a. (above).**

(9) That the membership of the Planning Committee be broadly representative of the geographic coverage of the Borough and that it be reduced from 19 Members to 15 with a further review 6 months after the first Planning Committee of 2019/20. This review should be carried out by the Governance Task Group in consultation with the Chair and Vice Chair of the Planning Committee.

(10) That the membership of the Standards Committee remain at 5 Members and two Co-opted Members.

(11) That the membership of the Employment Committee remains as set out in the Constitution i.e. 5 Members at least one of which must be an Executive Member.

(12) To ensure the Employment Committee makes a positive input to strategic recruitment and cultural development, the following roles and responsibilities be added to the terms of reference for the Employment Committee:

- a. **Oversight and engagement (with relevant Officers) in respect of the**

development of the Organisational Development Strategy – which includes the talent attraction/development/ retention strategy for staff and the Council's Management Structure.

- b. Establishing a critical friend role in relation to ensuring the Organisational Development Strategy is on track and fit for purpose. This should include consultation around the annual Service and Financial Planning process and Pay Policy Statement.
- c. That the application of a. and b. (above) be detailed in an annual work programme to be agreed at the start of each Municipal Year by the Employment Committee.

(13) That Annex 1 of Procedure Rule 9 (Officer Employment Rules responsibility for functions) be amended with the following additions:

- a. Direct Reports to the Chief Executive be recruited by the Employment Committee (taking into account the advice of the Head of Paid Service).
- b. Employment Committee to be consulted and briefed on the disciplinary / dismissal arrangements (including any compensation agreements) for Direct Reports to the Chief Executive.
- c. That the wording of "Other Employees*" be amended to clarify that this includes Heads of Service.
- d. That the lead Member of the Executive be consulted and briefed in the recruitment of any Head of Service under their Portfolio.

(14) That Chair training be provided to all line Committee Chairs, Vice Chairs, Mayor and Deputy Mayor.

(15) That all Employment Committee Members (including Substitute Members) to receive appropriate mandatory Member Learning and Development on equality and diversity in employment and related recruitment matters (e.g. fair recruitment processes, interviewing skills, etc.) in advance of sitting as a member of the Committee to ensure they can positively contribute to the Committee and the development of the Council's culture.

(16) All Executive Members to receive mandatory Member Learning and Development on equality and diversity in employment and recruitment matters.

(17) That, in addition to the mandatory Licensing and Regulatory training at the start of the Municipal Year, all Licensing and Regulatory Committee Members should attend "refresher training" half way through the year.

(18) That a standing cross-party "Task Group" be established to provide a Forum for the continued review of governance matters by the Council.

(19) That the membership, and terms of reference, of the standing "Task Group" be appointed annually at the Annual Council meeting applying the spirit of the political proportionality rules. The Task Group would agree its own Work Programme at its first meeting of the Municipal Year.

(20) That a delegation be provided to reflect the wording set out in Paragraph 12 of the Notes to the Officer Scheme of Delegation (Part 3b of the Constitution) to

clarify the Monitoring Officer's role within the scheme.

Paragraph 12 - The Monitoring Officer shall determine any issues as to the form and manner of the Scheme's operation, implementation or interpretation, for example, where clarification is required as to which officers can exercise a delegation or which Executive Member(s) must be consulted, or referred to in paragraph 6. above (ref new legislative provisions).

(21) That the Monitoring Officer be authorised to update the Constitution in accordance with the tracked changes set out in Annex 4 to this report, to reflect the recommendations agreed by the Executive.

(22) That a delegation be provided to the Monitoring Officer to make administrative and consequential amendments to the Constitution arising from the key principles of decisions taken by Council both in response to this report and any other adjustments to clarify points in the Constitution that do not change the key principle of its origin. The Governance Task Group Members would be consulted on the proposed changes two weeks in advance of their publication for any comments.

REASONS FOR RECOMMENDATIONS

This report sets out the findings from the Governance Task Group and puts forward a number of recommendations to ensure Council business is well managed and decisions are taken effectively and efficiently, in accordance with statutory requirements.

EXECUTIVE SUMMARY

In December 2018, the Leader of the Council established a cross-party Task Group to review a range of governance issues to ensure the Constitution provides a full and effective framework for the Council's decision making structures.

Councillors J.E. Durrant (Chair), T. Archer, J.M. Ellacott, J.C.S. Essex, K. Foreman, A.M. Lynch, J. Paul and T. Scofield sat on the Group and it was supported by Officers from across the Council including the Head of Legal and Governance (Monitoring Officer).

The findings and recommendations arising from the review are presented to the Executive following consideration by the Governance Task Group on 5 March 2019.

Executive has authority to approve Recommendations 14, 15, 16, 17 and 18.

Full Council has authority to approve Recommendations 1, 2, 3, 5, 6, 7a, 7b, 8a, 8b, 9, 10, 11, 12, 13, 19, 20, 21, 22.

Recommendation 7c is to be considered by the Planning Committee at the first meeting of the 2019/20 Municipal Year.

Recommendation 4 is to be considered by the Licensing and Regulatory Committee at the first meeting of the 2019/20 Municipal Year.

STATUTORY POWERS

1. Section 37 of the Local Government Act 2000 (as amended by the Localism Act 2011) requires the Council to prepare, keep up to date and publicise a Constitution. This sets out how the Council operates, how decisions are made and the procedures to be followed to ensure these are efficient, transparent and accountable to the community.
2. The current Constitution was originally adopted in 2001, as the Council moved from the Committee system to an Executive model of governance. This was based upon national guidance and a model developed, for use by all Councils, by the Department for Transport, Environment and the Regions and the Local Government Association.
3. As set out in the Constitution, both legislation and regulations provide for the division of functions between executive functions (Executive) and non-executive functions (Full Council and Committees). All functions of a local authority are the responsibility of the Executive unless otherwise specified in regulations. For example, quasi-judicial responsibilities, Human Resources and Elections. Functions such as approving the budget, adopting various plans and strategies constituting the Council's Policy Framework are only exercisable by Full Council itself. Other non-executive functions may be exercisable by a Committee or Sub-Committee and those not reserved to Full Council or a Committee are exercisable by Officers. If not reserved to the Executive, Full Council, another Committee or some other body, the decision can be taken by an Officer but only if set out via the Officer Scheme of Delegation, Contract Procedure Rules, other Procedure Rules including Financial, or specific delegation from the Executive.
4. Since 2001 there have been no further updates from Government. As a result, Councils have updated their Constitutions themselves, usually by adding to the document as new legislation has been enacted or in response to internal changes within the Council, such as the reorganisation of governance arrangements or restructures of the Council's management.
5. Reigate and Banstead Borough Council has been typical in this regard and overtime the Constitution has been revised to reflect additional requirements and duties from a range of legislation and guidance.

BACKGROUND

Terms of Reference

6. The Governance Task Group was, initially, established by the Leader of the Council for a time-limited duration to review certain areas of the Constitution and related governance issue. With the last in-depth review of the Constitution taking place in March 2014 work in this area was seen as timely, especially as from May 2019 the Council will be represented by 45 councillors (six fewer than now) following recommendations from the Local Government Boundary Commission.
7. A copy of the Terms of Reference including a draft indicative work programme, agreed by the Leader to provide a framework for the review, is attached at **Annex 1**. However, in view of the tight reporting schedule the Task Group realised that the

volume of work it requested to review was more than could be covered in the first phase of its work. Therefore, it was agreed that the following areas should be prioritised for immediate review:

- Key Decision Definition;
 - The role of the Employment Committee, including its terms of reference and Procedure Rule 9 (Officer Employment);
 - Committee Sizes and related matters;
 - Commercial Governance Review;
 - Considering how to keep the Constitution and related governance issues under review.
8. As a result, some of the areas highlighted in **Annex 1** have not been progressed at this stage. In addition, during scoping and evidence gathering the Task Group identified other issues for review. These important work streams, set out in **Annex 2**, will be revisited on completion of the immediate work.

Methodology and Approach

9. The Task Group adopted an evidence led approach and held six meetings, which were open to all Members, receiving evidence from the following Members and Officers (in order of their appearance): John Jory, Chief Executive; John Jones, Interim Head of Legal and Governance (Monitoring Officer)¹; Chris Phelan, Democratic Services Manager; Christian Scade, Deputy Democratic Services Manager; Andrew Benson, Head of Planning; Councillor B.A. Stead, Chairman, Overview and Scrutiny Committee; Councillor A.M. Lynch, Chairman, Licensing and Regulatory Committee; Dianne Mitchell, Senior Licensing Officer; Councillor S. Parnall, Chairman, Planning Committee; Councillor M.A. Brunt, Leader of the Council; Caroline Waterworth, Head of Legal and Governance (Monitoring Officer)²; and Councillor M.S. Blacker, Vice-Chairman, Planning Committee.
10. The Task Group also considered a range of documentary evidence and other material, including:
- Information from the Council's Constitution;
 - Comparative data from Surrey Districts and CIPFA's Nearest Neighbours;
 - Information from Knowles on Local Authority Meetings: Manual of Law and Practice (8th Edition);
 - The Council's Planning Protocol (July 2017) ;
 - An audit report concerning planning decision approval (September 2017); and
 - Options and modelling information for the future allocation of line committee seats.
11. Findings from these activities informed the recommendations set out in this report.

¹ (Interim) Head of Legal and Governance (Monitoring Officer) 1 August 2018 - 27 January 2019

² Head of Legal and Governance (Monitoring Officer) from 28 January 2019 – Present

KEY INFORMATION

Key Decision Definition

12. As set out in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (SI 2012/2089), a Key Decision means an executive decision, which is likely: (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
13. "Quite what the above means in practice has been the subject of debate for several years, but authorities have generally set a figure for expenditure/savings that clarifies matters in respect of their own constitutions." (Knowles on Local Authority Meetings: A Manual of Law and Practice (8th Edition).
14. With this in mind, the Task Group reviewed comparative information on how other local authorities defined their key decisions. This highlighted a range of definitions were in use and that the definition utilised by Reigate and Banstead remained consistent with most Surrey authorities and some of the statistical neighbouring authorities.
15. During the Task Group's investigation:
 - It was highlighted that adjustments had been made to governance operational arrangements for managing the business of the authority through its publishing requirements for business being transacted by the Executive. As a result a degree of settlement had been achieved to manage the business.
 - The Interim Head of Legal and Governance provided clarity on key aspects of review undertaken by a Monitoring Officer in relation to matters scheduled for consideration by the Executive. This included whether the authority had the legal powers to do what was being proposed and whether consultation requirements had been complied with. These were noted as being important areas that could result in the authority's decision making processes being challenged if they were not complied with. Managing the arrangements for Key Decisions was highlighted as an important part of this process.
16. The Task Group tested the business need and whether a change would help improve the flow of business. It was concluded, from the information reviewed, there was no significant need to change the definition of a Key Decision and that it should remain unchanged. However it noted that this could be reviewed in the future if there was an identified need.

Recommendation 1.

That the definition of a Key Decision, set out in Article 14 (14.3.2 – 14.3.4) of the Constitution should remain unchanged.

Committee Sizes and Related Matters

17. In addition to receiving comparative data on the size of other local authority Committee structures, during the Task Group's investigation it was recognised that:

- Following recommendations made by the Local Government Boundary Commission for England, from May 2019 Reigate and Banstead Borough Council would have fifteen wards, four fewer than there are now, and be represented by 45 councillors, six fewer than now.
- The Council's Independent Remuneration Panel (IRP), in its report to Council in December 2018, highlighted that in recent years the workloads and responsibilities for Reigate and Banstead Borough Councillors had increased and become more complex. The IRP's report also emphasised that nationally it was becoming increasingly difficult to recruit people to stand for office as councillors. A major disincentive for this was the time commitment required.

18. The theory of "group-think" was also considered in relation to committee sizes with the following observations provided by the Head of Legal and Governance from the perspective of encouraging good governance and monitoring compliance:

"Large committees have the disadvantage of "group-think" where a couple of key people state a view and the rest then go along with it rather than challenging. There are lots of reasons for why this happens but the outcome is that the decision-making process is often not rigorous, even if lots of questions are asked, because often the key assumptions are not challenged if they are missed by the group leaders. A smaller number within a group, in this case, a committee, allows for greater deliberation and a proper debate and testing of recommendations.

Finally, training for smaller numbers is likely to be more thorough and increase the expertise within the committees leading to better decision-making and improved reputational standing within the community we serve."

19. Whilst the Task Group did not reach consensus on the theory of "group-think", the points above were considered as part of evidence gathering on committee sizes and related matters, including the importance of Member Learning and Development.

Overview and Scrutiny Committee

20. The Task Group heard from the Chair of the Overview and Scrutiny Committee, Councillor B.A. Stead, that the existing size of the Committee operating at 15 was, in his opinion, working well and allowed for the appropriate level of challenge to be provided.
21. Comparative data from Surrey Districts also highlighted that 15 was not inconsistent with other such Committees across Surrey and that generally its size had not been an issue to date.
22. During evidence gathering:
 - The Task Group thought that changing the size to a smaller number was unlikely to affect the quality of discussion at the Committee.
 - It was highlighted that the application of the proportionality rules for a model of 13 maintained the same level of opposition members on the Committee, reducing the number of Members from the Administration by 2 (based on the percentage composition of the Council at May 2018).
 - It was agreed, in view of the future work streams set out in **Annex 2** including the need to review the Overview and Scrutiny Committee's operating arrangements,

that now was not a good time to make changes to the existing size of the Committee.

23. It was therefore concluded that, on balance, the Committee should continue at 15.

Recommendation 2.

That the membership of the Overview and Scrutiny Committee remain at 15 Members.

Licensing and Regulatory Committee

24. The Group heard from the Chair of the Committee, Councillor A.M. Lynch and the Council's Senior Licensing Officer. This included consideration of requirements under the Licensing Act 2003 regarding Committee sizes and structures. Each licensing authority must establish a licensing committee consisting of at least ten, but not more than fifteen, Members of the authority.
25. The Group also responded to a suggestion, put forward by the IRP in December 2018, concerning reviewing the number of Licensing and Sub-Committee Chairs for the Municipal Year 2019/20.
26. It was noted that the Committee operated with an effective structure of Sub Committees that considered the majority of its work. This resulted in the main Committee meeting less frequently.
27. In recognition of moving to 45 councillors in May 2019, it was accepted that changing the Committee size to 12 would not be detrimental provided that the operational arrangement of 5 Sub Committee Chairs was maintained to ensure there was flexibility when organising hearings at short notice.
28. It was also highlighted, as a result of infrequent meetings, that Members might require additional training to support them in undertaking their role.
29. In conclusion the Task Group agreed that the Committee should reduce to 12 (from 15) on the basis that the principle of 5 Sub Committee Chairs would continue and that increased training opportunities be provided.

Recommendation 3.

That the membership of the Licensing and Regulatory Committee be reduced to 12 Members.

Recommendation 4.

That the existing arrangements for Licensing and Regulatory Sub-Committee Chairs remain at 5 (the existing number).

Planning Committee

30. One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the local planning authority, both planning officers and the planning committee, make, planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
31. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way. Moreover, planning decision making is not an exact science but a process of informed judgement taken within a firm

policy and legislative context.

32. Decisions can be highly controversial due to their capacity to affect amenity and well-being as well as land and property interests, more so because the system actively invites public opinion as part of the decision making process. It is important, therefore, that the planning processes at the Council are characterised by open, objective and transparent decision-making.
33. The Group heard from the Council's Head of Planning, the Chair of the Committee, Councillor S. Parnall, and the Vice-Chair of the Committee, Councillor M.S. Blacker. The Leader of the Council, Councillor M.A. Brunt, also provided input based on his experience as Chair of the Committee from 2011/12 to 2017/18.
34. In addition, the Group heard from the Head of Legal and Governance, in her capacity as the Council's Monitoring Officer, to clarify that in her opinion there was a potential perceived misunderstanding of the role of the Planning Committee and that of a Ward Member. Therefore, in determining the size of the Committee the Monitoring Officer advised that the size of the Committee should be different to the number of wards. This was to remove any perceived linkage between the roles and responsibilities of a Ward Member and those of a Member of the Planning Committee.
35. The role of ward councillors, as democratically-elected local representatives, was recognised as being a unique and privileged position. It was noted that an important aspect of the role was to represent their ward and the people who live in it.
36. It was highlighted by some members that they considered that Ward Members had the greatest local knowledge in relation to matters before Planning Committee and the benefits of providing a ward based system for representation were discussed. In addition, roles and responsibilities for Members of the Planning Committee were considered, including the requirement to remain open minded and to consider applications without bias or predetermination.
37. During evidence gathering a wide range of issues were considered, including:

Training:

- This was regarded as a matter for Group Leaders' to ensure good attendance;
- Whether changing the format of training could increase the level of importance attributed;
- The need for chairmanship training to help develop the skills required for managing often complex meetings.

Size:

- There were mixed views on whether the perceived ward based principle for the size of the Committee was the most appropriate (or indeed whether that was actually the case now). Some Members felt strongly that this was important and others challenged that this was the case;
- The submission to the Boundary Committee was cited as an example of support for selecting the Committee size of 15;
- The value of local knowledge being retained on the Committee;
- That it was not necessary to have an 'odd' number of members on the Committee, particularly as there had been no recent issues of tied voting taking place on matters;
- Full attendance at meetings was not always possible;

- The convention of the Chairman remaining impartial on voting had not always been followed;
- Challenging the suggested benefit of reducing the Committee size in relation to fulfilling its quasi-judicial responsibilities;
- Challenging the value of a smaller Committee as it would continue to have Ward representation that could result in problems arising for example it could be unduly influenced by a dominant Member;
- A size higher than 15 would be consistent with the comparative evidence provided for other Surrey authorities.

Other Issues:

- Support for allowing Visiting Members the dedicated provision to speak at meetings;
- Noting the operational practice in some wards that ‘frees up’ a member to not participate in discussions with residents allowing them to contribute at Committee without constraint;
- The view was expressed that Ward Members should be invited to Site Visits (as operated by Surrey County Council) to balance the discussion and local knowledge, which could be achieved without pre determining the application;
- That Executive Members had an increased possibility of a conflict of interest in considering matters before the Committee and that it would be better if the convention (of not appointing Executive Members) be confirmed in the Constitution.

38. Before developing recommendations, the Task Group received a key principles document. This sought the Task Group’s response to issues that had been identified during evidence gathering and how best to associate those principles to the size of the Committee. The information set out in **Annex 3** reflects the Task Group’s response to the key principles and to support the rationale for each of their proposed changes emerging in the recommendations.

39. An Internal Audit Report from September 2017 in relation to the Council’s Planning Decision Approval Process, was also considered. This highlighted the importance of demonstrating transparency and negating conflicts of interests in relation to Members of the Executive that was increasingly involving property or commercial investment related decisions.

Recommendation 5.

That Members of the Executive be not allowed to be members or substitutes of the Planning Committee and that the Constitution be amended to reflect this.

40. From the evidence received, the Task Group agreed it was important to strengthen the role of the Ward Member at the Planning Committee, as opposed to being a Ward Member on the Committee. The Group heard a range of evidence that supported separating out the Ward Member involvement in debates at Planning Committee meetings that would help to remove allegations of predetermination or bias and reduce the likelihood of challenge based on procedural grounds.

Recommendation 6.

That Members of the Planning Committee be not allowed to participate as Members of the Committee nor vote on any matters that relate to their own

Wards and that the Constitution be amended to reflect this.

Recommendation 7.

That the role of Ward Members at Planning Committee be changed to strengthen and formalise the role with the ability to make representations on behalf of their Ward constituents, with clarification provided in the Constitution on the following:

- a. Providing any Ward Members with a time-limited opportunity (i.e. 3 minutes per Member with the Chair's discretion to adjust the time allowed and the frequency of contributions to the meeting) for input on each application considered by the Committee, requesting (but not moving) reasons for refusal* and attendance at site visits.**

** A summary of how this would work in practices is:*

- Ward members can request reasons for refusal but not move motions.*
- Reasons for refusal would only be provided to the Member requesting them.*
- The content of those reasons for refusal (requested by ward members) can be put to the Planning Committee during their dedicated speaking slot.*
- The Chairman should maintain an independent role and therefore would not propose reasons for refusal motions on behalf of ward members.*
- Committee members may ask for reasons for refusal to be moved and voted upon, which may include those requested by Ward Members. In the event that no reasons for refusal are moved and the Committee do not agree the Officer Recommendation (e.g. to grant permission) then the matter would stand referred to the next meeting of the Committee for re-consideration.*

- b. A reserved seat be provided in the Chamber for use by Ward Members (including Planning Committee Members who are not able to take up their Committee seat if the application relates to their Ward), to advocate on behalf of their Ward on each relevant application.**

- c. That the Planning Committee be requested to review its Planning Protocol to consider introducing wider scope for questioning / speaking at meetings (including the public) and to reflect a. and b. above.**

41. To ensure effective use of Council resources, including time spent at Planning Committee the following recommendation was put forward.

Recommendation 8.

- a. That the Officer Scheme of Delegation be amended to increase the delegation to the Head of Service with responsibility for Planning to determine applications for commercial works not exceeding 250 sqm.**

- b. That it be noted that the principle of referring matters to the Planning Committee, as set out in the Planning Protocol, would apply to a. (above).**

42. The Group deliberated long and hard over the various matters associated with Planning Committee size, including options for decoupling the perceived link between the number of Wards on the Council and the seats on the Committee to demonstrate separation of responsibilities. In addition, the Group considered the total number of seats that would be available on line committees in 2019/20. While there was no consensus on the optimum Committee size, the Group realised it had reached an impetus in its deliberations and concluded, subject to a further review in

6 months, that a committee size of 15 was an appropriate number, at least in the interim, to carry out the business required.

Recommendation 9.

That the membership of the Planning Committee be broadly representative of the geographic coverage of the Borough and that it be reduced from 19 Members to 15 with a further review 6 months after the first Planning Committee of 2019/20. This review should be carried out by the Governance Task Group in consultation with the Chair and Vice Chair of the Planning Committee.

*Note: Councillor J. Paul requested his dissent for **Recommendation 9** be recorded in the report.*

Standards Committee

43. The Task Group agreed that the Standards Committees should continue to retain a membership of 5 and 2 Co-opted Members. It was noted that the Standards Committee had requested in June 2018 that it undertake a separate review of its operations particularly in relation the Member complaints process.

Recommendation 10.

That the membership of the Standards Committee remain at 5 Members and two Co-opted Members.

Employment Committee (Terms of Reference and Procedure Rule 9)

44. The Council needs to understand, plan and develop its workforce requirements for the future in order to provide excellent services to the community it serves and to support the Council's vision, aims and values.
45. With this in mind, the Group heard from the Leader of the Council, Councillor M.A. Brunt, and the Chief Executive, Mr Jory, in his role as Head of Paid Service.
46. In considering Procedure Rule 9 (Officer Employment) and the Terms of Reference for the Employment Committee, set out in the Constitution, the Group's discussions focused on:
- Ensuring the Council has access to the right skill sets in order to deliver ambitious future objectives.
 - The importance of attracting a diverse future workforce to ensure an ongoing supply of suitable applicants across a broad range of occupations, tackling skill shortage areas and attracting the right people with the right skills and competencies at the right time.
 - Ensuring skills and capacity are in place to support change, focusing on future skill requirements to support service improvements, management and staff development and creating a more adaptable and flexible workforce.
 - Ensuring pay and reward policies are equitable, flexible and affordable, support the Council's performance management systems and are responsive to market pressures.
 - The need to enhance and clarify governance arrangements associated with Member involvement in senior officer recruitment, including functions relating to disciplinary / dismissal.

- The importance of Member Learning and Development, especially in relation to the roles and responsibilities of the Employment Committee and Member involvement in recruitment.
47. It was recognised that much of the above could be achieved through the development, implementation and ongoing review of an Organisational Development Strategy. With this in mind, recommendations set out in this report reflect a desire to ensure greater alignment between the Council's emerging Corporate Plan (2020-2025) and the shape of the organisation.

Recommendation 11.

That the membership of the Employment Committee remains as set out in the Constitution i.e. 5 Members at least one of which must be an Executive Member.

Recommendation 12.

To ensure the Employment Committee makes a positive input to strategic recruitment and cultural development, the following roles and responsibilities be added to the terms of reference for the Employment Committee:

- a. **Oversight and engagement (with relevant Officers) in respect of the development of the Organisational Development Strategy – which includes the talent attraction/development/ retention strategy for staff and the Council's Management Structure.**
- b. **Establishing a critical friend role in relation to ensuring the Organisational Development Strategy is on track and fit for purpose. This should include consultation around the annual Service and Financial Planning process and Pay Policy Statement.**
- c. **That the application of a. and b. (above) be detailed in an annual work programme to be agreed at the start of each Municipal Year by the Employment Committee.**

Recommendation 13.

That Annex 1 of Procedure Rule 9 (Officer Employment Rules responsibility for functions) be amended with the following additions:

- a. **Direct Reports to the Chief Executive be recruited by the Employment Committee (taking into account the advice of the Head of Paid Service).**
- b. **Employment Committee to be consulted and briefed on the disciplinary / dismissal arrangements (including any compensation agreements) for Direct Reports to the Chief Executive.**
- c. **That the wording of "Other Employees*" be amended to clarify that this includes Heads of Service.**
- d. **That the lead Member of the Executive be consulted and briefed in the recruitment of any Head of Service under their Portfolio.**

Member Learning and Development

48. The training and development of councillors to equip them with the knowledge and skills to enable them to effectively carry out the various roles that they are expected

to perform is consistent with the principles of good corporate governance.

49. Any council that is serious about meeting the needs of its community through its corporate plan priorities must be committed to the ongoing training and development of its councillors. These principles were considered by the Task Group as a way to ensure all Members can contribute to effective and efficient decision making.
50. The processes and procedures put in place for councillors' training and development were considered at various stages to ensure the Council provides a robust framework for responding to future challenges and legislative changes which, in turn, help the Council to deliver on all of its strategic priorities.
51. The recommendations set out in this report reflect work currently underway to develop a refreshed Member and Learning Development Programme for 2019/20. They also reflect the Group's discussions in relation to Employment Committee and Committee Sizes more generally.

Recommendation 14.

That Chair training be provided to all line Committee Chairs, Vice Chairs, Mayor and Deputy Mayor.

Recommendation 15.

That all Employment Committee Members (including Substitute Members) to receive appropriate mandatory Member Learning and Development on equality and diversity in employment and related recruitment matters (e.g. fair recruitment processes, interviewing skills, etc.) in advance of sitting as a member of the Committee to ensure they can positively contribute to the Committee and the development of the Council's culture.

Recommendation 16.

All Executive Members to receive mandatory Member Learning and Development on equality and diversity in employment and recruitment matters.

Recommendation 17.

That, in addition to the mandatory Licensing and Regulatory training at the start of the Municipal Year, all Licensing and Regulatory Committee Members should attend "refresher training" half way through the year.

Keeping the Constitution Under Review

52. Investigating how best to keep the Constitution and related governance matters under review was an important element of the Task Group's work. With the last in-depth review of the Constitution taking place in March 2014 it was agreed such matters should be considered more frequently and via a forum that allowed a range of governance matters to be considered.
53. In response to a Member enquiry, the Chief Executive highlighted that putting mechanisms in place that allowed the Monitoring Officer to update the Constitution with administrative or consequential amendments arising from the key principles taken by Council would help to facilitate efficient and effective decision making.

Recommendation 18.

That a standing cross-party "Task Group" be established to provide a Forum

for the continued review of governance matters by the Council.

Recommendation 19.

That the membership, and terms of reference, of the standing “Task Group” be appointed annually at the Annual Council meeting applying the spirit of the political proportionality rules. The Task Group would agree its own Work Programme at its first meeting of the Municipal Year

Recommendation 20.

That a delegation be provided to reflect the wording set out in Paragraph 12 of the Notes to the Officer Scheme of Delegation (Part 3b of the Constitution) to clarify the Monitoring Officer’s role within the scheme.

Paragraph 12 - The Monitoring Officer shall determine any issues as to the form and manner of the Scheme’s operation, implementation or interpretation, for example, where clarification is required as to which officers can exercise a delegation or which Executive Member(s) must be consulted, or referred to in paragraph 6. above (ref new legislative provisions).

Recommendation 21.

That the Monitoring Officer be authorised to update the Constitution in accordance with the tracked changes set out in Annex 4 to this report, to reflect the recommendations agreed by the Executive.

Recommendation 22.

That a delegation be provided to the Monitoring Officer to make administrative and consequential amendments to the Constitution arising from the key principles of decisions taken by Council both in response to this report and any other adjustments to clarify points in the Constitution that do not change the key principle of its origin. The Governance Task Group Members would be consulted on the proposed changes two weeks in advance of their publication for any comments.

Commercial Governance Review

54. Councillor J.M. Ellacott, Chair of the Commercial Governance Task Group, provided regular updates on progress in this area. The final Commercial Governance report, considered by the Overview and Committee in February, will be considered by the Executive on 18 March 2019.
55. In the event that the Commercial Governance Task Group’s conclusions are adopted a further report to the Executive will be required in order to request detailed implementation of their recommendations. As a result, no further action is required by this Task Group.

OPTIONS

56. The Executive may:
 - (a) Approve the recommendations. The revised Constitution would be recommended to Full Council on 11 April 2019. This is the recommended option and ensures that the Council has an up to date, legal and effective Constitution. It does not prevent further Constitutional work being taken forward.

- (b) Approve only some of the proposed changes set out in the report.
- (c) Defer the decision and request further work be undertaken by the Governance Task Group on any aspect of the proposed amendments. This would delay the adoption of a revised Constitution.

LEGAL IMPLICATIONS

57. Under the Local Government Act 2000 (as amended by the Localism Act 2011) it is a legal requirement for the Council to maintain an up to date Constitution, reflecting the statutory requirements for decision making.

FINANCIAL IMPLICATIONS

58. The main financial implications arising from this report relate to resources required to deliver increased democratic engagement and activities associated with increased Member Learning and Development.
59. The Member Learning and Development budget for 2019/20 is £4,000. A draft programme has been developed to take account of the points arising from the Task Group and was supported by Group Leaders' on 6 March 2019. The suggestions set out in this report can be delivered but may require additional budget or managed decisions on overspend to achieve the objectives of the wider programme.
60. Costs associated with the proposed increase in democratic engagement and Member support more generally cannot be stated with complete certainty. These will be dependent on future work streams which were not considered by the Task Group at this stage. For example, the future management of the Council's webcasting facility and support for the Modern Members programme.
61. Future financial implications will need to be considered as the Task Group progresses with its work programme to ensure deliverability.

EQUALITIES IMPLICATIONS

62. The Council is asked to have regard to their duties under the Equality Act 2010. This requires the Council to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;
 - Advance equality of opportunity between people who share a protected characteristic and those who do not;
 - Foster good relations between people who share a protected characteristic and those who do not.
63. There are no equalities implications arising from this report. However, it should be noted that the Constitution, including its Procedures, Rules, Codes and Protocols, acts as an enabling tool in helping the Council meet its obligations and duties.

COMMUNICATION IMPLICATIONS

64. There are no communication implications arising from this report.

RISK MANAGEMENT CONSIDERATIONS

65. Risk management considerations should be an integral part of decision making and the Constitution should help facilitate such considerations.

OTHER IMPLICATIONS

66. Consideration of how policies, projects and proposals can secure environmental, social and economic benefits and reduce negative consequences should be an integral part of decision-making and the Constitution should facilitate such considerations.

CONSULTATION

67. This review was carried out by a cross-party Task Group. However, all Members were invited to attend meetings, which took place between 16 January and 5 March 2019, with a number of Members attending and contributing.
68. To ensure all Members, Directors and Heads of Service were briefed on developments the notes from each session were shared via email. Comments received were taken into account and shared with the Task Group ahead of recommendations being put forward.

POLICY FRAMEWORK

69. The Constitution sets out the Budget and Policy Framework, and the proposed changes will help to provide a clear framework for Councillors and Officers in the development, scrutiny and approval of policies.

ANNEXES

- **Annex 1:** Terms of Reference
- **Annex 2:** Future Work Programme
- **Annex 3:** Key Principles Document (Planning Committee)
- **Annex 4:** Constitution – Revised Chapters (Track Changes)

BACKGROUND PAPERS

70. The Minutes/Notes from meetings of the Governance Task Group held on: 6 January 2019; 24 January 2019; 5 February 2019; 13 February 2019 and 21 February 2019.