

# additional papers 1



## Council

Mon 22 Jul  
2019  
7.00 pm

Council Chamber  
Town Hall  
Redditch

**REDDITCH** BOROUGH COUNCIL

*making  
a  
difference*

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**If you have any queries on this Agenda please contact  
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# Council

Monday, 22nd July, 2019

7.00 pm

Council Chamber - Town Hall  
Redditch

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## Agenda

### Membership:

Cllrs:

Roger Bennett (Mayor)  
Gareth Prosser (Deputy Mayor)  
Juliet Brunner  
Salman Akbar  
Joe Baker  
Tom Baker-Price  
Joanne Beecham  
Michael Chalk  
Debbie Chance  
Greg Chance  
Brandon Clayton  
Matthew Dormer  
John Fisher  
Peter Fleming  
Andrew Fry

Julian Grubb  
Bill Hartnett  
Pattie Hill  
Ann Isherwood  
Wanda King  
Anthony Lovell  
Gemma Monaco  
Nyear Nazir  
Mike Rouse  
Mark Shurmer  
Yvonne Smith  
David Thain  
Craig Warhurst  
Jennifer Wheeler

## 9. Constitutional Review Working Party (Pages 1 - 10)

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**Council**

22nd July 2019

**CONSTITUTIONAL REVIEW WORKING PARTY – RECOMMENDATIONS TO COUNCIL**

Relevant Portfolio Holder	Councillor Thain, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	No
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Wards Affected	N/A
Ward Councillor Consulted	N/A
Non- Key Decision	

**1. SUMMARY OF PROPOSALS**

The report provides background information in respect of recommendations that have been made by the Constitutional Review Working Party in respect of amendments to the Council's constitution.

**2. RECOMMENDATIONS**

Council is asked to **RESOLVED** that:

- 1) **the Officer Code of Conduct be removed from the Council's constitution;**
- 2) **the terms of reference for the Licensing Sub-Committee B should be amended to enable all members of the Licensing Committee to Chair meetings of the Sub-Committee, subject to receiving appropriate quasi-judicial training; and**
- 3) **the Overview and Scrutiny Procedure Rules should be amended to require the Leader of the Council to meet with the Chair of the Overview and Scrutiny Committee on a quarterly basis to discuss scrutiny matters.**

**3. KEY ISSUES****Background**

- 3.1 At a meeting of the Constitutional Review Working Party held on Tuesday 16<sup>th</sup> July 2019 Members considered a number of proposals to amend the Council's constitution on a number of subjects:

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Officer Code of Conduct

- 3.2 The Officer Code of Conduct has been reviewed by a working group comprising staff, managers and trades union representatives.
- 3.3 To ensure that the Officer Code of Conduct can be reviewed and updated in a timely manner and treated like all other HR policies it is proposed that the Officer Code of Conduct should be removed from the Council's constitution.

Licensing Sub-Committee B

- 3.4 Members also considered the Council's requirements for those Members acting as Chair of meetings of the Licensing Sub-Committee B, which primarily considers taxi applications. Currently either the Chair or the Vice Chair of the Licensing (parent) Committee is required to Chair meetings of the Licensing Sub-Committee B. Members noted that this is not a requirement for meetings of Sub-Committee A, where any member of the panel can Chair the hearing. The requirement is set out in the terms of reference for the Licensing Sub-Committee B, attached at Appendix 3 to this report.
- 3.5 Members were advised that this requirement had created some difficulties in recent years when Officers were arranging meetings of the Licensing Sub-Committee, which needed to take place during the day to accommodate the needs of taxi drivers. However, daytime meetings could create some difficulties, particularly with respect to organising the Chair for the meeting as Members with work commitments and / or lots of Council commitments could have limited availability. As under the Council's existing licensing policies a significant number of taxi licensing applications needed to be considered by the Sub-Committee, Officers were having to spend a lot of time trying to organise meetings that could be chaired by the relevant Members.
- 3.6 Members debated the chairing requirements: On the one hand Members agreed that there needed to be greater flexibility to enable meetings of the Licensing Sub-Committee B to be organised more efficiently. On the other hand concerns were raised that experienced Members needed to Chair the meetings. In this context the Constitutional Review Working Party are proposing that all Members of the Licensing Committee should be able to Chair meetings of the Licensing Sub-Committee B, subject to those Members having participated in appropriate quasi-judicial training.

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Overview and Scrutiny

- 3.7 The Overview and Scrutiny Committee considered a report in respect of the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities at a meeting on 6<sup>th</sup> June 2019. During that meeting Members welcomed news that the Council's Overview and Scrutiny process was already compliant with many of the points raised in the guidance. However, there were a few parts of the guidance that differed from local practice.
- 3.8 The Overview and Scrutiny Committee requested a report for consideration at a meeting on 4<sup>th</sup> July 2019 that focused only on areas of the guidance that differed from local practice. At that meeting the Committee considered the relevance of these points to scrutiny arrangements in Redditch and whether to adapt local practices in response. The outcome of the discussions at this meeting can be viewed in the extract from the minutes of that meeting at Appendix 4 to this report.
- 3.9 One of the key proposals in the Statutory Guidance was that there should be early and regular engagement between the Executive and Scrutiny. The Chair of the Overview and Scrutiny Committee reported that on an informal basis he was in regular contact with the Leader of the Council about recommendations arising from the Overview and Scrutiny Committee for the consideration of the Executive Committee. However, there is currently no formal process in place requiring the Leader of the Council to have regular dialogue with the Chair of the Overview and Scrutiny Committee about scrutiny matters.
- 3.10 The Overview and Scrutiny Committee was advised that some local authorities, including Bromsgrove District Council, have a constitutional requirement for the Leader of the Council to meet with the Chair of the Council's lead Overview and Scrutiny Committee to discuss matters for scrutiny. Members agreed that a similar constitutional requirement should be introduced in Redditch in order to comply with the terms set out in the Statutory Guidance.
- 3.11 Members were advised that at Bromsgrove District Council the Leader and Chair of the Council's Overview and Scrutiny Committee were required to meet on a quarterly basis. Members agreed that a similar approach should be adopted in Redditch, though Members agreed that there should be flexibility to hold meetings more regularly as and when necessary.

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- 3.12 Whilst the Overview and Scrutiny Committee suggested that the Vice Chair of the Committee and the leader of the opposition should attend these meetings the Constitutional Review Working Party concluded that it would be easier and more appropriate to arrange for the Chair of the Overview and Scrutiny Committee and the Leader of the Council to attend.

**Financial Implications**

- 3.13 There will be the cost of Officer and Member time in terms of arranging and attending the meetings between the Leader of the Council and the Chair of the Overview and Scrutiny Committee, though this cost is not likely to be significant.

**Legal Implications**

- 3.14 The Officer Code of Conduct is a contractual employment policy. The new policy needs to go through a formal consultation period with trade unions with a view to reaching a collective agreement, in order to avoid a breach of contract claim from employees.
- 3.15 The Officer Code of Conduct has been reviewed alongside other Council HR policies. The content of the code of conduct relates only to staff and there is no legal requirement for the Officer Code of Conduct to remain in the Council's constitution.
- 3.16 Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities was published by the Department of Housing, Communities and Local Government in May 2019. The guidance was issued under Section 9Q of the Local Government Act 2000 and under Paragraph 2 (9) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009, which requires authorities to have regard to this guidance.
- 3.17 The Statutory Guidance does recognise the need for flexibility to ensure that Overview and Scrutiny arrangements in place at a Council meet the needs of that local authority.

**Service / Operational Implications**

- 3.18 The Officer Code of conduct has been reviewed in conjunction with other employment policies to ensure the policies support one another. The review of this policy has incorporated a working group made up of employees, managers and trade unions.

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- 3.19 The Officer Code of Conduct identifies the behaviours the Council expects of officers. If the changes to the Officer Code of Conduct are not implemented this would not support other employment policies.
- 3.20 Historically the Officer Code of Conduct formed part of the constitution as it was written at the same time as the Member Code of Conduct.
- 3.21 Currently Democratic Services Officers are spending a significant amount of time organising licensing Sub-Committee B meetings. More flexible requirements in respect of who can Chair meetings of this Sub-Committee should enable the Officers to organise those meetings more quickly and efficiently, to the benefit of those individuals who have submitted an application for the Sub-Committee's consideration.
- 3.22 The Overview and Scrutiny Procedure Rules, at Part 11 of the Council's constitution, specify how the Overview and Scrutiny process should operate in Redditch. For this reason it is proposed that the requirement for the Leader to meet with the Chair of the Overview and Scrutiny Committee should be added to those procedure rules.

**Customer / Equalities and Diversity Implications**

- 3.23 A full Equality Impact Assessment has been completed to support the review of the Officer Code of Conduct. This has included working groups with a full range of staff and their representatives. There have been no issues identified.

**4. RISK MANAGEMENT**

- 4.1 If Human Resources are the owners of the Officer Code of Conduct, then any changes to the policy can go through the appropriate consultation prior to implementation, ensuring the authority is not open to claims of breach of contract.
- 4.2 There was a risk that if the Overview and Scrutiny Committee had not considered the Statutory Guidance and whether to amend its practices in response, the authority would not have been demonstrating that it had given due regard to the points raised in that guidance.
- 4.3 There is also a risk that if the Council does not agree to amend the Overview and Scrutiny Procedure Rules Members will not be demonstrating that the Council has given due regard to a key point raised in the Statutory Guidance.

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**5. APPENDICES**

Appendix 1 – Licensing Sub-Committee B – Committee Terms of Reference

Appendix 2 - Extract from the minutes of the Overview and Scrutiny Committee held on 4<sup>th</sup> July 2019

**6. BACKGROUND PAPERS**

Overview and Scrutiny Procedure Rules, Part 11 of the Council's constitution.

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, (published by the Department of Housing, Communities and Local Government in May 2019).

Government Review – Overview and Scrutiny Guidance Report, considered by the Overview and Scrutiny committee at a meeting on 6<sup>th</sup> June 2019.

Overview and Scrutiny Guidance – Presentation, report to the Overview and Scrutiny Committee considered on 4<sup>th</sup> July 2019

**AUTHOR OF REPORT**

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**APPENDIX 1 - LICENSING SUB-COMMITTEE B****Taxis/sex establishments/other****Parent Committee – Licensing Committee**

Number of Members	3 members of the Licensing Committee  <i>Membership to be agreed by Officers, in consultation with the Chair, as required per application and to include a 4th reserve member.</i>
Politically Balanced Y/N	N
Quorum	3
Procedure Rules applicable	Council Procedure Rules (with the exception of Council Procedure Rules 1-4, 10, 14, 18.2, 20.1 and 22). Quasi-judicial meetings rules apply.
Terms of Reference	To determine all matters referred to it including (but not limited to):- (1) private hire and hackney carriage driver, operator and vehicle licensing; (2) street trading consents; (3) sex shop applications; (4) pet shop licences; (5) animal boarding licences; (6) riding establishment licences.
Special provisions as to the Chair	Chair or Vice-Chair of the Licensing (Parent) Committee.
Special provisions as to membership	Only those Councillors who have undertaken *appropriate training may sit on the Licensing Sub-Committee.  <i>*Quasi-Judicial meetings training.</i>





# Overview and Scrutiny Committee

Thursday, 4th July, 2019

## MINUTES

### APPENDIX 2

#### Present:

Councillor Joe Baker (Chair), Councillor Debbie Chance (Vice-Chair) and Councillors Joanne Beecham, Michael Chalk, Andrew Fry, Anthony Lovell, Nyear Nazir, Mark Shurmer and Jennifer Wheeler

#### Officers:

Jayne Baylis, Sue Hanley, Guy Revans and Judith Willis

#### Democratic Services Officers:

J Bayley and F Mughal

#### 19. OVERVIEW AND SCRUTINY SELECT COMMITTEE FINDINGS AND NEW GOVERNANCE GUIDANCE - PRESENTATION

Members were reminded that at the previous meeting of the Committee on 6<sup>th</sup> June, 2019 the Committee had considered the Overview and Scrutiny Statutory Guidance that had been published by the Department of Housing, Communities and Local Government in May 2019. As requested during that meeting a report had been produced which highlighted the areas in the guidance that diverged from local scrutiny practice. Members were invited to consider whether to make any amendments to local practice based on the content of the report.

During consideration of the report the following points were highlighted:

- The guidance stressed the need for early and regular engagement between the Executive and Scrutiny. Although the Chair of the Overview and Scrutiny Committee discussed scrutiny matters with the Leader of the Council when necessary, the Committee suggested that this arrangement should be formalised as it was at other Councils. To ensure that these meetings were useful Members proposed that the Leader of the Council should meet with the Chair and Vice Chair of the Overview and Scrutiny Committee as well as the

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Chair

# Overview and Scrutiny Committee

Thursday, 4th July, 2019

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leader of the opposition to discuss scrutiny matters. In line with practice at other Councils Members suggested that these meetings should take place on a quarterly basis, though additional meetings could be arranged if required.

- Communicating Scrutiny's Role and Purpose to the Wider Authority and Communicating Scrutiny's Role to the Public was another section of the guidance that was discussed. Members noted that the local press were not always able to attend scrutiny meetings, though could help to disseminate information about scrutiny activities to the public. The Committee agreed that the Council's Communications Team should be invited to attend a future meeting to help discuss action that could be taken to help raise awareness of the work of the Overview and Scrutiny Committee with the public.
- Conflicts of interest, including familial links was a future point in the guidance that was considered by the Committee. Members noted that it was important to avoid any perception that a Member's approach to scrutiny was shaped by their familial links to a Member of the Executive committee. However, Members also agreed that in a small authority such as Redditch Borough Council there was always the possibility that scrutiny Members would have family links members of the Executive Committee. It was agreed that where Members were scrutinising the work of a particular Portfolio Holder any scrutiny Members related to that Portfolio Holder should declare an interest.

**RECOMMENDED to the Constitutional Review Working Party that**

**the Chair and Vice Chair of the Overview and Scrutiny Committee should meet on a quarterly basis with the Leader of the Council and the leader of the opposition to discuss scrutiny matters.**

The Meeting commenced at 6.30 pm  
and closed at 8.07 pm