
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 16th July 2019 Members considered a number of proposals to amend the Council's constitution on a number of subjects:

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.

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 6th 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 4th 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.

- 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.

- 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.

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 4th 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 6th June 2019.

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

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