

SUBJECT:	Review of the Council's Constitution
REPORT OF:	Monitoring Officer
RESPONSIBLE OFFICER	Jim Burness, Director of Resources
REPORT AUTHOR	Joanna Swift, Head of Legal and Democratic Services and Monitoring Officer
WARD/S AFFECTED	N/A

1. Purpose of Report

In accordance with the agreed work plan to enable the Committee to undertake a detailed review of the Codes and Protocols in Parts 5 and 9 of the Council's Constitution, together with the delegations to Cabinet and the terms of reference of the Licensing and Regulation Committee and its Sub-Committees from Part 3 of the Constitution, deferred from the meeting on 18 January.

RECOMMENDATION

That the Committee consider and agree the proposed revisions to the:-

- 1. Code on gifts and hospitality and Protocol on member/officer relations at Appendix 1**
- 2. Code of Practice on planning matters and protocol on speaking at Planning Committee at Appendix 2**
- 3. Overview and Scrutiny procedures and Whistle Blowing Policy for members at Appendix 3**
- 4. Petitions Scheme at Appendix 4**
- 5. Cabinet Delegations at Appendix and Terms of reference of Licensing & Regulation Committee and its Sub-Committee at Appendix 5**

2. Reasons for Recommendation

To ensure the Council's Constitution is fit for purpose and more user-friendly for members, staff and the public, to introduce harmonised procedures with South Bucks District Council where this will facilitate more effective running of shared services and to ensure the Council meets its statutory duty of publishing an up to date Constitution.

3. PART 5 Codes and Protocols

- 3.1 The Committee agreed a work programme for reviewing and updating the Constitution at their meeting in October which was revised at their last meeting to reflect this additional meeting. This report deals in detail with the procedure rules in Parts 5 and 9 of the Constitution which are appended with proposed revisions shown in track changes. It also covers the Cabinet delegations and terms of reference for Licensing and Regulation Committee deferred from the meeting on 18 January. Consideration of Part 7 Management

Structure, the Scheme of Delegations to Officers and the Proper Officer Functions, together with Part 8 Rights of Inspection will be deferred to the next meeting on 23 March.

- 3.2 Part 5 includes the following codes and protocols: Code of Conduct for Elected Members (revised code adopted by the Council in August 2012); Code of Conduct on Gifts and Hospitality (attached at Appendix 1 consideration); Code of Practice on Planning Matters (attached at Appendix 2 for consideration); Protocol on member/officer relations (attached at Appendix 1 for consideration) ; Code of Conduct for Officers (a revised and harmonised Employee Code of Conduct was approved by Personnel Committee in July 2015); Code of Recommended Practice on Local Authority Publicity (this document is issued by the DCLG and the latest version is dated 31 March 2011) ; Local Code of Corporate Governance (a revised code is due to be adopted by Council on 28 February). Those codes and protocols requiring review by the Committee are referred to in more detail below.

Code of Conduct on Gifts and Hospitality

- 3.3 The current code is set out in Appendix 1 and covers the principles for deciding if and when members should accept gifts and hospitality in their official capacity, together with declaration and consent procedures. It is proposed to re-name this as a Protocol to avoid confusion with the Code of Conduct for Members. The proposed revisions are shown in track changes and will be explained in detail at the meeting. They reflect the provisions of the Bribery Act 2010 and changes to the standards framework introduced by the Localism Act 2011.

Protocol on member/officer relations

- 3.4 The current rules are attached at Appendix 1 and set out a framework to cover member and officer relations and seek to encourage good practice throughout the Council. The proposed revisions are shown in track changes and include a new introduction covering the importance of mutual trust and confidence between members and officers to ensure effective working within the Council and the standards of conduct expected in accordance with the respective codes for members and officers. The protocol also deals with the position of the Chief Executive and other senior officers who provide advice to the Cabinet and members generally.

Code of Practice on Planning Matters

- 3.5 The current rules are attached at Appendix 2 and deal with the Council's arrangements for dealing with planning applications and decision-making procedures at both officer and Planning Committee level. They seek to ensure that the Council's process is fair and transparent and that decisions are based on material planning considerations and accord with relevant planning policy. The Code was last updated in 2007 and the proposed revisions shown in track changes reflect changes to the rules on declarations of interest introduced by the Localism Act 2011 and the Disclosable Pecuniary Interest Regulations 2012, as well as the new National Planning Policy Framework and Guidance, Planning Advisory Service guidance on and changes to post titles in the planning service. The revisions will be explained fully at the meeting.

Protocol on speaking at Planning Committee

- 3.6 This new Protocol at Appendix 2 contains the rules on speaking at Planning Committee meetings which were previously part of the Council Procedure Rules but are considered to justify separate attention. No substantive revisions are proposed to the rules themselves.

PART 9 Local Protocols

- 3.7 This part of the Constitution contains the following nine local procedural documents: Procedure to be adopted at "Call In" meetings of the Overview Committees (attached at Appendix 3 for consideration); Procedures to be adopted at Investigative meetings of Overview Committees (attached at Appendix 3 for consideration); Complaints Procedure (this is the corporate complaints procedure which is now published on the Council's website); Officer Whistle-Blowing Policy (a revised and harmonised Protected Disclosure Policy was approved by Council in November 2016); Anti- Fraud and Corruption Policy Statement 2009 (the latest revised and harmonised version of the Joint Anti-Fraud, Bribery and Corruption Policy was adopted by the Council in November 2016); Local Determination Framework - Standards Committee pre-hearing and hearing processes (these processes were abolished by the Localism Act 2011); Whistle Blowing Policy for Members 2010 (attached at Appendix 3 for consideration); Complaints against councillors (a revised complaints procedure was adopted by the Council in August 2012); Petitions Scheme (attached at Appendix 4 for consideration). The protocols requiring consideration by the Committee are covered in more detail below.

Overview Committee Procedures

- 3.8 The current procedures are attached at Appendix 3 and deal with the arrangements for Overview Committees when they consider cabinet decisions that have been called-in and when undertaking investigatory work. The revisions are shown in track changes and reflect changes to interests and dispensations introduced by the Localism Act 2011 but otherwise no substantive changes are proposed to these procedures.

Whistle blowing Policy for Members

- 3.9 The current policy is attached at Appendix 3 and deals with rules on receiving and disclosing confidential information. This main general obligation for members to maintain the confidentiality is set out in paragraph 3(4) of the Code of Conduct and much of the advice in this policy has now been superseded by changes to the standards framework introduced by the Localism Act. The proposed revisions are shown in track changes and will explained fully at the meeting.

Petitions Scheme

- 3.10 The Council's current scheme is attached at Appendix 4 and sets out how petitions will be handled. The proposed revisions are shown in track changes and include deletion of the provisions dealing with e-Petitions as this requirement has been repealed. Otherwise no substantive changes are proposed to the Scheme.

PART 3 Delegations to Cabinet Portfolio Holders

- 3.11 These delegations record the specific delegations that have been given to portfolio holders and approved by Cabinet. They have been updated to reflect the current portfolios and the revisions are shown in track changes at Appendix 5.

PART 3 Terms of Reference of Licensing and Regulation Committee and its Sub-Committees

- 3.12 These terms of reference are attached at Appendix 5 with proposed revisions shown in track changes. These seek to avoid repetition of legislative provisions already set out in Section B of Part 3 and establish a single sub-committee to deal with hearings under the Licensing Act, Gambling Act and hackney carriage/private hire vehicle legislation. The changes will be explained in detail at the meeting.

3 Consultation

The Committee is asked to consider whether, and if so how, they wish to consult on the proposed revisions with members more widely, either via committees/cabinet or individually.

4 Options

The Committee can decide whether to agree the proposed revisions as set out in the attached appendices and suggest alternatives.

6. Corporate Implications

Financial – There are no financial implications arising directly from this report

Legal – As set out in the report

Risks issues – The lack of an up to date and effective Constitution could increase the risk of governance failures

Equalities - None specific

7. Links to Council Policy Objectives

There are no direct links to the policy objectives. But the Council has a statutory duty to maintain an up to date Constitution and publish this on the website.

8. Next Steps

As set out in the agreed work programme.

Background Papers:	None except those referred to in the report
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