



Constitution and Standards Committee

Date: Thursday, 13 April 2023

Time: 6.00 p.m.

Venue: Committee Room 1 - Wallasey Town Hall

Contact Officer: Katherine Brown

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Please note that public seating is limited, therefore members of the public are encouraged to arrive in good time.

Wirral Council is fully committed to equalities and our obligations under The Equality Act 2010 and Public Sector Equality Duty. If you have any adjustments that would help you attend or participate at this meeting, please let us know as soon as possible and we would be happy to facilitate where possible. Please contact committeeservices@wirral.gov.uk

This meeting will be webcast at
<https://wirral.public-i.tv/core/portal/home>

AGENDA

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTERESTS

Members are asked to consider whether they have any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

3. MINUTES (Pages 1 - 4)

To approve the accuracy of the minutes of the meeting held on 22 February 2023.

4. PUBLIC AND MEMBER QUESTIONS

Public Questions

Notice of question to be given in writing or by email by 10 April 2023 to the Council's Monitoring Officer (via the online form here: [Public Question Form](#)) and to be dealt with in accordance with Standing Order 10.

For more information on how your personal information will be used, please see this link:
[Document Data Protection Protocol for Public Speakers at Committees | Wirral Council](#)

Please contact the Committee Services Officer listed at the top of this agenda if you have not received an acknowledgement of your question by the deadline for submission.

Statements and Petitions

Statements

Notice of representations to be given in writing or by email by 12 noon, 10 April 2023 to the Council's Monitoring Officer (committeeservices@wirral.gov.uk) and to be dealt with in accordance with Standing Order 11.

Petitions

Petitions may be presented to the Committee if provided to Democratic and Member Services no later than 10 working days before the meeting, at the discretion of the Chair. The person presenting the petition will be allowed to address the meeting briefly (not exceeding three minutes) to outline the aims of the petition. The Chair will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda. If a petition contains more than 5,000 signatures, it will be debated at a subsequent meeting of the Council for up to 15 minutes, at the discretion of the Chair. Please give notice of petitions to committeeservices@wirral.gov.uk in advance of the meeting.

Please telephone the Committee Services Officer if you have not received an acknowledgement of your question/statement by the deadline for submission.

Questions by Members

Questions by Members to be dealt with in accordance with Standing Orders 12.3 to 12.8.

5. AMENDMENTS TO THE CONSTITUTION (Pages 5 - 10)

Terms of Reference

The terms of reference for this committee can be found at the end of

this agenda.

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CONSTITUTION AND STANDARDS COMMITTEE

Wednesday, 22 February 2023

Present:

Councillor	T Cox (Chair)	
Councillors	J McManus	A Onwuemene
	P Stuart	P Gilchrist
	P Hayes	

22 APOLOGIES FOR ABSENCE

No apologies for absence were received.

23 DECLARATIONS OF INTERESTS

Members were asked to declare any disclosable pecuniary interests and any other relevant interest and to state the nature of the interest.
No such declarations were made.

24 MINUTES

Minutes:

Resolved – That the minutes of the meeting held on be approved on 23 November 2022 be held as a correct record.

25 PUBLIC AND MEMBER QUESTIONS

No public questions or statements were received in advance of the committee meeting.

26 MEMBERS LEARNING AND DEVELOPMENT STRATEGY 2023 - 2027

The Head of Democratic and Member Services introduced the report of the Director of Law and Governance. The report provided Members with the proposed Members Learning and Development Strategy (ML&DS) that reinforced the importance placed on the provision of quality learning and development for all Members.

Members were advised how, ahead of the planned whole Council elections scheduled for May 2023, there was an opportunity to introduce and deliver a

strategy that ensured consistent and well-established plans to best develop Members through their four-year term of office.

The Strategy provided Members with the opportunity to develop skills and learning which assisted with their roles as decision makers and within the community. It also supported their wellbeing and safety.

Members were informed that the strategy had been produced with regard to the upcoming all-out elections in May 2023 and recommendations from the Independent Assurance Panel and Local Government Association (LGA) Peer review. It was also noted that whilst there was a robust new Member induction in place, there had previously not been a Learning and Development strategy which brought together a programme of committee specific and targeted learning. It would be launched in May 2023 in line with the new Member induction and started a four-year training programme for all Members.

Members thanked officers for the work producing the strategy and noted how helpful the Member Induction programme was for newly elected Members. It was requested that the dates for the induction programme be confirmed with candidates and agents in advance of the Local Election in May 2023. They also requested that the Committee calendar be appended to the induction programme.

Resolved – that the Member Learning and Development Strategy for 2023-27 be approved.

27 SUMMARY OF STANDARDS COMPLAINTS

The Head of Legal Services presented the report of the Monitoring Officer. The report provided a summary of Standards complaints received under the Members' Code of Conduct and Protocol for dealing with complaints against Members between 1 November 2021 and 31 December 2022.

Members were informed that the Council is required to deal with complaints made against Members under its approved Ethical Framework. It was noted that between 1 November 2021 and 31 December 2022 a total of 13 complaints in respect of the conduct of 6 Members had been received. The complaints were received from 10 different complainants. There were 2 complaints raised by Members against other Members. None of the complaints received were referred for a formal investigation.

Members were informed that several of the complaints were from members of the public regarding conduct by Members on social media and behaviour at meetings. Some complaints require detailed enquiries and therefore could take several months to conclude, however the number of complains is at a stable level. No complaints had been raised with the Chair regarding the

timescales of investigations and it was noted how invaluable the independent persons are when it came to standards complaints. There is no right of appeal in relation to the Monitoring Officer's decision, however complainants can go to the Local Government Ombudsman. In the past year, two complainants had been referred to the Local Government Ombudsman and the Ombudsman had concluded that the complaints process had been followed correctly and there was no cause for further investigation.

Resolved – that the report be noted.

28 **CALENDAR OF MEETINGS 2023/24 AND 2024/25**

The Head of Democratic and Member Services presented the report of the Director of Law and Governance. This report recommended draft dates for Council and Committee meetings for the municipal year 2023/2024. Members were informed that the upcoming all-out election gave an opportunity to develop a two-year programme of meetings.

Members commented that they appreciated the early notification of the meeting cycle but noted that the Policy and Resource Committee was scheduled for 14 February 2024 and requested this be moved by a day.

Resolved – That Council be recommended to approve the Calendar of Meetings for the 2023/24 and 24/25 municipal year, subject to Policy and Resources Committee being rescheduled from 14 February 2024 to 13 February 2024

29 **AMENDMENTS TO THE COUNCIL PROCEDURE RULES**

The Head of Democratic and Member Services presented the report of the Director of Law and Governance. The report provides a summary of the discussions held by the Governance Working Group in respect to the Council Procedure Rules and the consideration of Motions on Notice at Council Meetings. Members were informed that the Governance Working Group heard feedback from each of the Political Groups and the Mayor and determined that there were three matters which warranted further consideration by the Constitution & Standard Committee.

The matters previously identified by the Governance Working Group were:

- Standing Orders 9.1 & 14 (I) that the meeting continues beyond 3 hours in duration (2 in the case of an extraordinary meeting)
- Standing Order 13.1 - so as to restrict the number of Motions on Notice submitted to one per political group

- Standing Order 13.2 – in respect to the order in which Motions on Notice are debated

The Governance working group, had over the past few months spoken with the Political Groups and consulted with other Local Authorities on best practice. Members discussed the requirement for openness and transparency during public meetings with several Members considering the previous arrangements sufficient. However, the ability for smaller groups to have their motions on notice heard and discussed in public was also raised as a concern for some Members.

A motion was moved by Councillor Tony Cox, Seconded by Councillor Amanda Onwuemene as follows;

'that Council be recommended to amend

standing order 9.1 & 14 to read where 3.5 hours have elapsed,

standing order 13.1 to limit the number of motions on notice to 1 per political group,

standing order 13.2 so that the first motion on notice listed be rotated so as to allow each political group the opportunity for their motion to be debated first (to be co-ordinated by the Director of Law & Governance), with motions thereafter to be listed in the order of political group size '.

The motion was put and carried (4:2)

Resolved – that Council be recommended to amend,

- (1) standing order 9.1 & 14 to read where 3.5 hours have elapsed,**
- (2) standing order 13.1 that the number of motions be limited to 1 per group,**
- (3) standing order 13.2 so that the first motion on notice listed be rotated so as to allow each political group the opportunity for their motion to be debated first (to be co-ordinated by the Director of Law & Governance), with motions thereafter to be listed in the order of political group size.'**



CONSTITUTION AND STANDARDS COMMITTEE

Thursday, 13 April 2023

REPORT TITLE:	AMENDMENTS TO THE CONSTITUTION
REPORT OF:	DIRECTOR OF LAW AND GOVERNANCE

REPORT SUMMARY

This report provides a summary of the discussions held by the Governance Working Group in respect to proposed changes to the Constitution. The proposed changes are in relation to:

- Sharing written responses to public questions with the public (SO 10.9 (c) and 12.6 (c))
- Sharing of motions and amendments without notice (SO 14(h))
- Acceptance of grant funding by Officers
- Questions to members appointed to Joint Authorities at Council meetings (SO12.1)

This matter affects all wards. This is not a key decision.

The report contributes to the delivery of all five Wirral Plan 2021-2026 Priorities by ensuring that the Council's decision-making process is as effective as possible.

RECOMMENDATION/S

Constitution and Standards Committee is recommended to agree that the suggested amendments to the Standing Orders as detailed in sections 3.2 to 3.5 of the report be incorporated into the Constitution presented for approval at the Annual Council Meeting in May 2023.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Throughout the Municipal year 2022/2023 a number of matters were drawn to the attention of the Monitoring Officer by Members, Officers and Members of the public in respect to the scheme of delegation and other aspects of the Constitution. The Monitoring Officer presented a summary report to the Governance Working Group on 23rd March 2023 and the outcomes of that working group are presented in sections 3.2 to 3.5 of the report for consideration and approval.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Constitution & Standards Committee could decide that having considered the matters referred to in section 3.2 to 3.5 of the report, that they do not deem it necessary to make a recommendation to the Council to amend the Constitution and that they remain unchanged.

3.0 BACKGROUND INFORMATION

- 3.1 At the meeting Governance Working Group on 23rd March 2023, Members considered four issues and suggested changes to the Constitution as follows:-

- 3.2 The Constitution as drafted doesn't allow members of the public to see written responses to Public and Member Questions

Members were informed that this issue could be resolved by amending SO 10.9(c) and 12.6 (c) as follows:

10.9(c) a written answer to be provided later to the questioner, where the reply cannot conveniently be given orally, in which circumstance the councillor questioned will arrange for the written response to be provided to the questioner and circulated to all members within 10 working days thereafter **and included as an addendum to the Minutes.**

12.6(c) a written answer circulated to Members of the Council either during the meeting at which the question is asked or subsequently, in which circumstance the Member questioned will arrange for the written response to be sent to all Members within 10 working days thereafter **and included as an addendum to the Minutes.**

The Working Group agreed that this proposal should be referred to Council for approval.

- 3.3 Sharing of Motions and Amendments without Notice

The Working Group heard that this related to SO 14(h) of the Constitution which related specifically to Motions which could be moved without notice and was not to be confused with SO13 *Motions on Notice*.

The Working Group considered that it was good practice to share motions and amendments in advance of a Committee meeting but recognised that there would be

occasions when a Political Group or individual Member would not wish to do so. The Working Group noted that it was also not a legal requirement to do so. The following amendment was suggested:

14(h) to amend a motion (members are strongly encouraged, where possible, to share motions and amendments in advance with fellow Committee Members in advance of the meeting)

The Working Group agreed that this proposal should be referred to Council for approval.

3.4 Overview and Scheme of Delegations of Authority to Officers – Acceptance of Grant Funding

The Working Group heard from the Director of Law and Governance that there was no explicit authority for Chief Officers to accept grant funding contained in the Officer Scheme of Delegation. She expressed the view that the insertion of a further clause would enable more effective and efficient decision making and would not negate the oversight enjoyed by Members under the existing scheme. It was suggested that the following be added:

Part 3(c) Overview and Scheme of Delegations of Authority to Officers

(d): In respect to the receipt of grant funding, express delegation is given to the Section 151 Officer. Relevant Chief Officers will subsequently report the acceptance of the grant funding to the appropriate Committee. Spend of grant funding will be dealt with in accordance with sections 2(a) to 2(c) above.

The Working Group agreed that this proposal should be referred to Council for approval.

3.5 Dealing with Questions to Members Appointed to Joint Authorities At Council

The Head of Democratic and Member Services outlined the requirements of Section 41 of the Local Government Act 1985 which sets out the requirement for the Council to make arrangements to enable questions on the discharge of functions of a joint authority, to the members appointed to it. He explained that the current provision in the constitution did not strictly comply with the requirement as SO 12.1 stated:

A Member of the Council may ask the Leader or the Chair of a Committee or any representative of the Council on the Combined Authority any question without notice upon an item of the report of a committee or from the Combined Authority when that item is being received or under consideration by the Council.

It was suggested that the legal requirements would be better met by incorporating questions to representatives on Joint Authorities under SO12.2 which would result in the following amendments to the Constitution:

SO12.1 A Member of the Council may ask the Leader or the Chair of a Committee or ~~any representative of the Council on the Combined Authority~~ any question without

notice upon an item of the report of a committee ~~or from the Combined Authority~~ when that item is being received or under consideration by the Council.

SO 12.2 Subject to Standing Order 12.4, at an Ordinary Meeting of the Council a Member may ask the Leader or Deputy Leader of the Council, the Chair of any of the Council's Committees or a Leader of a Political Group on the Council, ~~or representatives on Joint Authorities~~ questions on matters which the Council has powers or duties or which affects the area of the Council and which fall within their responsibility, ~~or which fall within the responsibility of the relevant Joint Authority~~

The Working Group agreed that this proposal should be referred to Council for approval.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implication arising from the recommendations detailed in this report.

5.0 LEGAL IMPLICATIONS

- 5.1 Part 3, Section A of the constitution details those functions which are reserved to the Council Meeting. Point 2 (k) stipulates those significant changes to the Council's Constitution, include adopting and amending standing orders, Rules of Procedure, Contract Procedure Rules, Financial Regulations, Codes and Protocols that make up the Constitution.
- 5.2 Should the Constitution & Standards Committee conclude that the Council Procedure Rules be amended, then a recommendation must be made to the Council for a final decision.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are no implications arising from the recommendations detailed in this report.

7.0 RELEVANT RISKS

- 7.1 There are no foreseen risks arising from the recommendations detailed in this report.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The Governance Working Group has been consulted and recommended to proposed changes, in consultation with the Director of Law and Governance.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.

9.2 There are no direct equality implications arising from this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no direct environment and climate implications arising from this report

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct community wealth implications arising from this report.

REPORT AUTHOR: **Steve Fox**
Head of Democratic and Member Services
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APPENDICES

None

BACKGROUND PAPERS

Council Constitution

TERMS OF REFERENCE

This report is being considered by the Constitution and Standards Committee in accordance with Section 11.2(a) of its Terms of Reference, to keep the Council's constitutional arrangements under review and to make recommendations as to amendments and improvements to the Council's Constitution, including the codes and protocols.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Council	May 2022

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Constitution and Standards Committee – Terms of Reference

The Constitution and Standards Committee is responsible for overseeing the operation of the Council's Constitution and for promoting and maintaining high standards of ethical conduct and probity within the Council, including the exercise of all functions of the Authority in relation to ethical standards and, in particular, those under Chapter 7 of the Localism Act 2011.

The Committee is charged by full Council to undertake responsibility for the Council's role and functions:-

- (a) to keep the Council's constitutional arrangements under review and to make recommendations as to amendments and improvements to the Council's Constitution, including the codes and protocols;
- (b) to oversee and agree such minor and consequential changes to the Council's constitutional arrangements as are recommended by the Monitoring officer from time to time;
- (c) to hear and determine complaints against members alleging breaches of the Members' Code of Conduct;
- (d) to take an action in respect of a member found to be in breach;
- (e) to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council including:
 - (i) approving and issuing guidance to Members
 - (ii) making recommendations to Full Council regarding the suggested amendment of the Members' Code of Conduct
 - (iii) approving training to be provided to members in the Code of Conduct
 - (iv) monitoring the operation of the Code of Conduct
- (f) to approve the granting, to any Council employee, of a dispensation in relation to disqualification from political activities Local Government and Housing Act 1989;
- (g) to select and recommend to Council persons for appointment as members of the Council's Independent Remuneration Panel;
- (h) to select and recommend to Council persons for appointment as an Independent Person;
- (i) to receive and approve proposals regarding the Council's exercise of powers covered by the Regulation of Investigatory Powers Act;
- (j) to issue dispensations to any member in respect of statutory and non-statutory disclosable interests;
- (k) to monitor and review as necessary the operation of whistleblowing procedures;
- (l) to consider reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its Members; and
- (m) to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Council.

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