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Date: 13 April 2017

Notice of meeting

Members' Code of Conduct Committee

Date: Tuesday, 25 April 2017

Time: 7.30 pm

Place: Goddard Room, Council Offices, Knowle Green, Staines-upon-Thames

To the members of the Members' Code of Conduct Committee

Councillors:

M.P.C. Francis
A.L. Griffiths
J.G. Kavanagh
V.J. Leighton
S.C. Mooney
R.W. Sider BEM
B.B. Spoor
H.A. Thomson

Independent Members

Mr Murray Litvak (Chairman)
Miss Sue Faulkner (Vice-Chairman)

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

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AGENDA

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|--|----------------|
| 1. Apologies | |
| 2. Minutes
To agree the minutes of the meeting held on 14 April 2016 as a correct record. | 3 - 4 |
| 3. Disclosures of Interest
To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members. | |
| 4. Minutes of Panel meetings
To note the minutes of the Members' Code of Conduct Committee Assessment and Hearing Panel meetings held since the last meeting of this Committee:

The Monitoring Officer will provide a verbal update at the meeting. | |
| a) 15 July 2016 | 5 - 6 |
| b) 12 October 2016 | 7 - 8 |
| c) 16 December 2016 | 9 - 10 |
| 5. Amendments to Constitution - Disciplinary procedures for Chief Officers
To consider a report on amendments to the Constitution in relation to disciplinary procedures for Chief Officers and to make a recommendation to Council. | 11 - 28 |
| 6. Review of Petition Scheme
To consider a report on a review of the Council's Petition Scheme and make a recommendation to the Cabinet. | 29 - 30 |

**Minutes of the Members' Code of Conduct Committee
14 April 2016**

Present:

Murray Litvak (Chairman)
Miss Sue Faulkner (Vice-Chairman)

Councillors:

S. Capes R.A. Smith-Ainsley
J.G. Kavanagh B.B. Spoor
R.W. Sider BEM

Apologies: Councillors A.E. Friday and A.J. Mitchell

84/16 Minutes

The minutes of the meeting held on 18 June 2015 were agreed as a correct record.

85/16 Disclosures of Interest

There were none.

86/16 Review of the Constitution 2015

The Deputy Monitoring Officer outlined the changes proposed following a review of the Council's Constitution which had highlighted the need for various technical amendments to be made to ensure that it remained appropriate and relevant as the main tool by which the Council managed its business and was kept up to date with changing legislation.

The Committee discussed the changes with the Deputy Monitoring Officer and proposed some amendments to the Planning Code in respect of: clarifying 'planning reasons' by the addition of the word 'material'; and including a procedure at Committee for situations where a member of the Planning Committee has 'Called-in' an application.

The Committee also raised with officers a number of minor typographical errors and consistency issues which occurred throughout the Constitution.

Resolved to recommend Cabinet:

- (i) to agree changes to the delegations of all executive functions;
- (ii) to recommend the proposed changes to non-executive functions to Council;

- (iii) to recommend the revised Constitution to Council for approval, subject to:
 - 1. amendments to the Planning Code (Part 5d):
 - a. to include the word 'material' before every reference to 'planning reasons' and
 - b. to include a new paragraph 20.(i) which reads –
'Where the councillor who 'Called-in' an application is a member of the Planning Committee, that councillor will be given 3 minutes to speak following the public speakers and may then speak again as a member of the Committee during its debate on the item.'; and
 - 2. corrections to typographical and consistency errors throughout the document; and
- (iv) to recommend Council to agree to delegate to the Monitoring Officer, consequential changes to the Scheme of Delegations to Officers (part 3d) following the appointments of Group Heads.

Minutes of Members' Code of Conduct Committee Assessment Panel

15 July 2016

Present:

Mr Murray Litvak, Chairman of the Members' Code of Conduct
Councillor I.T.E. Harvey, Leader of the Council
Councillor R.W. Sider BEM
Councillor B.B. Spoor

167 Disclosures of Interest

There were none.

168 Exclusion of Press and Public

Resolved that under Section 100a(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in the paragraph of part 1 of schedule 12a of the Act indicated below.

Paragraph 1 - Information relating to any individual and on the basis that publication would not be in the public interest because information and documentation is personal and subject to an obligation of confidentiality.

169 Exempt Complaint Assessment Report against Councillor A

The Panel considered the report of the Monitoring Officer concerning a complaint from a member of the public on the conduct of Councillor A in relation to a telephone conversation on 25 April 2016.

The Panel took into consideration the view of the Independent Person which was provided at the meeting. The Panel noted the Independent Person's view that the case appeared to involve a breach of the Members' Code of Conduct and should be investigated further.

The Panel concluded that there was sufficient evidence to indicate a breach of paragraphs 7 and 9 of the Members' Code of Conduct outlined below:

7. "You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example."
9. "You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be

treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.”

The Panel agreed that the case therefore warranted further investigation by the Monitoring Officer.

Resolved to investigate the complaint further with a view to a hearing of the Members' Code of Conduct Committee in the near future.

Minutes of Members' Code of Conduct Committee Panel

12 October 2016

Present:

Mr Murray Litvak
Councillor S.C. Mooney
Councillor R.W. Sider BEM
Councillor B.B. Spoor

Councillors in attendance: Councillor S. Burkmar

225/16 Disclosures of Interest

There were none.

226/16 Exclusion of Press and Public

The Panel considered whether the press and public should be excluded from the meeting during consideration of the following matter on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act.

The Panel in making its decision had regard to all circumstances and was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

RESOLVED that in the interest of having a frank and open discussion about the matter, the press and public are excluded from the meeting.

227/16 Exempt Determination of Complaint against Councillor Burkmar

The Chairman opened the meeting by re-introducing the members of the Panel and officers present and explained the nature of the decision to be taken.

The Chairman reminded all concerned of the process undertaken so far in that, on 15 July 2016, the Panel considered the report of the Monitoring

Officer concerning a complaint from a member of the public on the conduct of Councillor Burkmar in relation to a telephone conversation on 25 April 2016.

The Panel noted the Independent Person's view that the case appeared to involve a breach of the Members' Code of Conduct and should be investigated further.

The Panel concluded that there was sufficient evidence to indicate a breach of paragraphs 7 and 9 of the Members' Code of Conduct outlined herewith:

7. "You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example."

9. "You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating."

The Panel decided as follows:

1. That Councillor Burkmar was disrespectful to his constituent during their telephone conversation contrary to paragraphs 7 and 9 of the Code of Conduct.
2. That Councillor Burkmar was discourteous and disrespectful to his email correspondents contrary to paragraphs 7 and 9 of the Code of Conduct.

RESOLVED that the Panel, having considered all the evidence, concluded the following sanctions were appropriate:

- a. For breach no. 1 above, Councillor Burkmar is required to send a private, written apology to the constituent and copy in the Monitoring Officer, Michael Graham, within 7 days of the Hearing.
- b. For breach no. 2 above, Councillor Burkmar is required to attend ICT training in order to get the best use out of the equipment he has purchased as soon as possible, and to advise the Monitoring Officer when this training is complete.
- c. Also for breach no. 2, the Panel censured Councillor Burkmar and agreed to issue a Press release on this matter.

Minutes of Members' Code of Conduct Committee Panel

16 December 2016

Present:

Mr Murray Litvak
Councillor V.J. Leighton
Councillor B.B. Spoor
Councillor H.A. Thomson

274/16 Disclosures of Interest

There were none.

275/16 Exclusion of Press and Public

The Panel considered whether the press and public should be excluded from the meeting during consideration of the following matter on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act.

The Panel in making its decision had regard to all circumstances and was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

RESOLVED that in the interest of having a frank and open discussion about the matter, the press and public are excluded from the meeting.

276/16 Exempt Complaint Assessment Report against Councillors B, C and D

The Panel considered the report of the Monitoring Officer which set out an allegation, by way of a letter of complaint received from a member of the public, about the conduct of Councillors B, C and D.

The Panel also took into consideration the view of the Independent Person which was provided at the meeting. The Panel noted the Independent Person's view that the case did not appear to involve a breach of the Members' Code of Conduct and therefore should not be investigated further; but that other formal modes of recourse remained open to the complainant should they wish to pursue their complaint further.

The Panel determined, having regard to the Assessment Criteria, that the evidence presented in the complaint did not disclose a possible breach of paragraphs 7 and 9 of the Members' Code of Conduct.

The Panel did conclude however that there were aspects of the case that could have been handled more effectively, in particular some adjustments Councillor B might have made to correspondence with the complainant.

The Panel agreed that the Monitoring Officer should respond to the complainant, enclosing a copy of the Independent Person's report, and that no further investigation was justified.

RESOLVED that:

1. No further investigation is necessary in response to the complaint and
2. the Monitoring Officer be asked to write to the complainant to confirm the Panel's decision and to draw the case to a close.

Members' Code of Conduct Committee

25 April 2017



Title	Changes to the Constitution – Chief Officers Disciplinary Procedures		
Purpose of the report	To make a recommendation to Council		
Report Author	Gillian Hobbs		
Cabinet Member	Councillor Ian Harvey	Confidential	No
Corporate Priority	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
Recommendations	<p>The Members Code of Conduct Committee is asked to recommend Council to agree:</p> <p>(i) to amend the Officer Employment Procedure Rules relating to disciplinary action by reference to the Model Discipline Procedure and Guidance as set out at Appendix 2;</p> <p>(ii) the appointment of:</p> <p style="padding-left: 40px;">(a) Investigating and Disciplinary Committee</p> <p style="padding-left: 40px;">(b) Independent Panel</p> <p>with the Terms of Reference as set out at Appendix 4 and</p> <p>(iii) amendments to the Terms of Reference of the Staffing and Appeals Committee; and</p> <p>(iv) to amend the introduction to the Scheme of Delegations as set out at Appendix 5.</p>		
Reason for Recommendation	<p>The Council is required to maintain a Constitution and Standing Orders setting out how the Council will operate and take decisions.</p> <p>The Joint Negotiating Committee for Local Authority Chief Executives <i>Model Discipline Procedure and Guidance</i> incorporates the new statutory process for taking disciplinary action against Council Statutory Officers.</p>		

1. Key issues

- 1.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ('the Regulations') provided for new arrangements for taking disciplinary action against Council Statutory Officers by replacing investigation by a Designated Independent Person (DIP) of an allegation of misconduct against these senior officers, with an Independent Panel process.
- 1.2 The Council employs three Statutory Officers, as follows:

Mr Roberto Tambini	Head of Paid Service
Mr Terry Collier	Chief Finance (S151) Officer
Mr Michael Graham	Monitoring Officer

- 1.3 The Independent Panel comprises Independent Persons who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011.
- 1.4 At its meeting on 16 July 2015 the Council agreed the appointments of 5 Independent Persons to support both the Council's Code of Conduct and Statutory Officer procedure rule requirements.
- 1.5 The Council also authorised the Monitoring Officer to make consequential amendments to the Officer Employment Procedure Rules within the Constitution arising from 'the Regulations'. Whilst a general authority was given in order to incorporate the necessary changes, no detailed guidance was made available at that time in order to marry the statutory provisions with the contractual provisions under which Chief Officers served.
- 1.6 The Joint Negotiating Committee for Local Authority Chief Executives (JNC), which is the body responsible for Chief Officer Conditions of Service undertook a thorough consideration of the statutory changes. In October 2016 it published a *Model Discipline Procedure and Guidance* (**Appendix 1 – available in the Members' Room**) incorporating the new statutory process, in the latest edition of the Chief Executives Handbook.
- 1.7 The Local Government Association (LGA) and the Association of Local Authority Chief Executives and Senior Managers (ALACE) through the JNC for Chief Executives have commended this model procedure because:
 - The procedure and guidance have been drawn-up in light of the experience of the Joint Secretaries in their involvement with individual cases;
 - Its variants apply to constitutions with council leader / cabinet executives, mayor/cabinet executives and those councils operating a committee system.

2. Options analysis and proposal

- 2.1 It is proposed at this time to adopt the JNC *Model Discipline Procedure and Guidance* as the process by which this Council deals with matters of discipline, capability, redundancy and other dismissals against the Chief Executive.
- 2.2 Whilst the model procedure applies specifically to chief executives, it is proposed that this also be used as a framework for the Council's statutory chief officers.
- 2.3 The Officer Employment Procedure Rules have been updated to incorporate reference to the model procedure for dealing with disciplinary action, and are attached as **Appendix 2**.
- 2.4 The model procedure can be modified by mutual agreement to suit the particular circumstances of a case, but not so as to contradict the requirements of the Regulations. There is an obligation on both the authority and its chief executive to give fair consideration to reasonable proposals from the other party to modify the model procedure to suit local circumstances.

- 2.5 In order to use the model procedure, the Council needs to consider appointing appropriate committees with their delegated powers, before incidents which might engage the procedure arise.
- 2.6 A key feature of the model procedure is the specific roles envisaged to be undertaken by an Investigating and Disciplinary Committee (IDC), the Staffing and Appeals Committee, the Independent Panel and the Council.
- 2.7 A requirement for any disciplinary process is to carry out an investigation of the allegations to establish the facts of the case and to collate evidence for use in the disciplinary hearing. In the case of a chief officer, it will normally be necessary to engage an independent person for this purpose, and this person is referred to in the model procedure as the Independent Investigator. The JNC has agreed arrangements to enable the speedy appointment of a competent and experienced person to perform this role, with the assistance of the Joint Secretaries.
- 2.8 A model flowchart which shows the involvement of each body in the disciplinary procedure is attached at **Appendix 3**.
- 2.9 The proposed Terms of Reference for the Independent Panel, in accordance with 'the Regulations', and for both the Staffing and Appeals Committee and Investigating and Disciplinary Committee in accordance with those envisaged by the model procedure, are attached at **Appendix 4**.
- 2.10 Council approval is required for the proposed appointments of Committees with their delegated powers as set out in this report. However, there can be changes in legislation necessitating changes to the Constitution which do not alter the nature of existing delegations. In order to facilitate efficient decision making, it is therefore proposed to give the Head of Corporate Governance authority to amend delegations to reflect changes in legislation, or references to legislation, in those cases where such changes do not alter the nature of the existing delegations. The proposed amendment is shown in the Introduction to the Scheme of Delegations attached as **Appendix 5**.

3. Legal Implications

- 3.1 The recommendations within this report will ensure that the Council meets the requirements of the Regulations.
- 3.2 It is important to have robust and thorough procedures in place should the Council need to take disciplinary proceedings against one of its Statutory Officers. Members may be aware of a recent case in a neighbouring local authority which sought to dismiss the Chief Executive and Monitoring Officer and there was considerable disruption to Council business as a result.

4. Financial implications

- 4.1 There are no financial implications arising from the changes outlined in this report.

Background papers: There are none.

Appendices:

Appendix 1 (*Available in the Members' Room*) – Joint Negotiating Committee for Local Authority Chief Executives Model Discipline Procedure and Guidance

Appendix 2 – Officer Employment Procedure Rules – Constitution Part 4(f)
Appendix 3 – Model Disciplinary Procedure flowchart
Appendix 4 - Terms of Reference – Part 3(b) of the Constitution
Appendix 5 – Introduction to the Scheme of Delegations–Constitution Part 3 (a)

Part 4 section (f)

OFFICER EMPLOYMENT PROCEDURE RULES**1. RECRUITMENT AND APPOINTMENT****(a) Declarations**

- The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, aunt, nephew or niece of an existing Member or officer of the Council; or of the partner of such persons.
- No candidate so related to a Member or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment

- Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- Subject to paragraph (iii), no Member will seek support for any person for any appointment with the Council.
- Nothing in paragraphs (i) and (ii) preclude a Member from giving a written reference for a candidate for submission with an application for appointment.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

2.1 Where the Council proposes to appoint a chief officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) Draw up a statement specifying:

- the duties of the officer concerned; and
- any qualifications or qualities to be sought in the person to be appointed.

(b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) Make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. APPOINTMENT OF HEAD OF PAID SERVICE (CHIEF EXECUTIVE)

- (a)** The Council will approve the appointment of the head of paid service following the recommendation of such an appointment by a committee

or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.

- (b) The Council may only make or approve the appointment of the head of paid service where no material or well-founded objection has been made by any member of the Cabinet.

4. APPOINTMENT OF CHIEF OFFICERS AND OTHER SENIOR OFFICERS

- (a) A committee or sub-committee of the Council will appoint Chief Officers and Senior Officers to any posts above salary level Group Head. That committee or sub-committee must include at least one member of the Cabinet. All other senior officers will be appointed by officers in accordance with the Delegations to Officers in Part 3 of the Constitution.
- (b) An offer of employment as a chief officer, non-statutory chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

5. OTHER APPOINTMENTS

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officers (other than any assistants to political groups) is the responsibility of the head of paid service and his/her nominee, and may not be made by Members.
- (b) **Assistants to political groups.** Any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. DISCIPLINARY ACTION

The Council will follow the *Model Discipline Procedure and Guidance* for dealing with matters of discipline, capability, redundancy and other dismissals against the Chief Executive, as specified in the [latest edition of the] *Chief Executives of Local Authorities Handbook* and any subsequent updates. This procedure will also be used as the framework for dealing with matters of discipline against other statutory chief officers within the Council [until the separate chief officers' handbook is updated in due course].

~~6.~~ ~~DISCIPLINARY ACTION~~

~~(a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.~~

~~(b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.~~

~~(c) **Members will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary,**~~

~~capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.~~

~~7. DISMISSAL~~

~~Members will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.~~

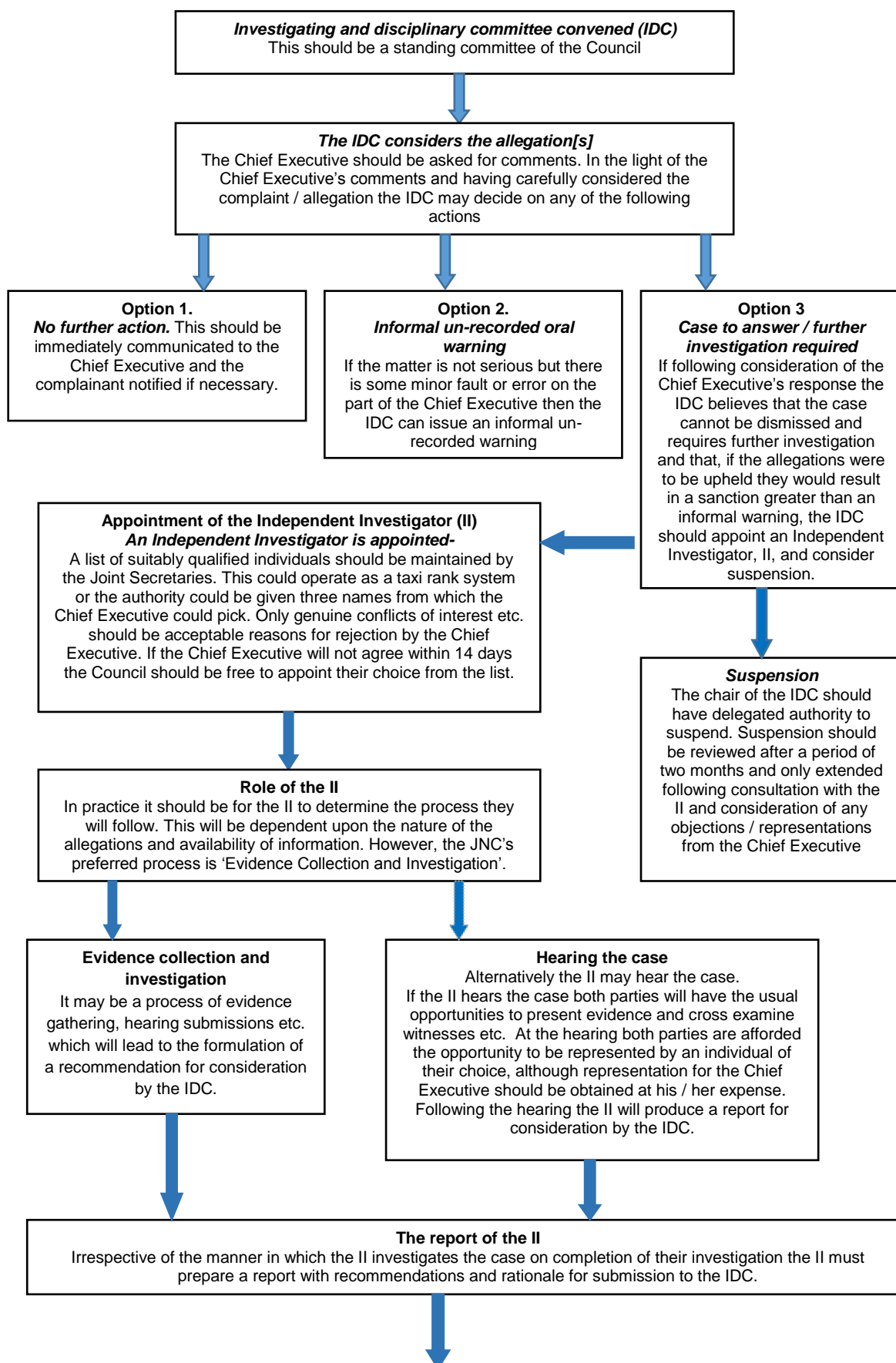
6.7. EQUAL OPPORTUNITIES

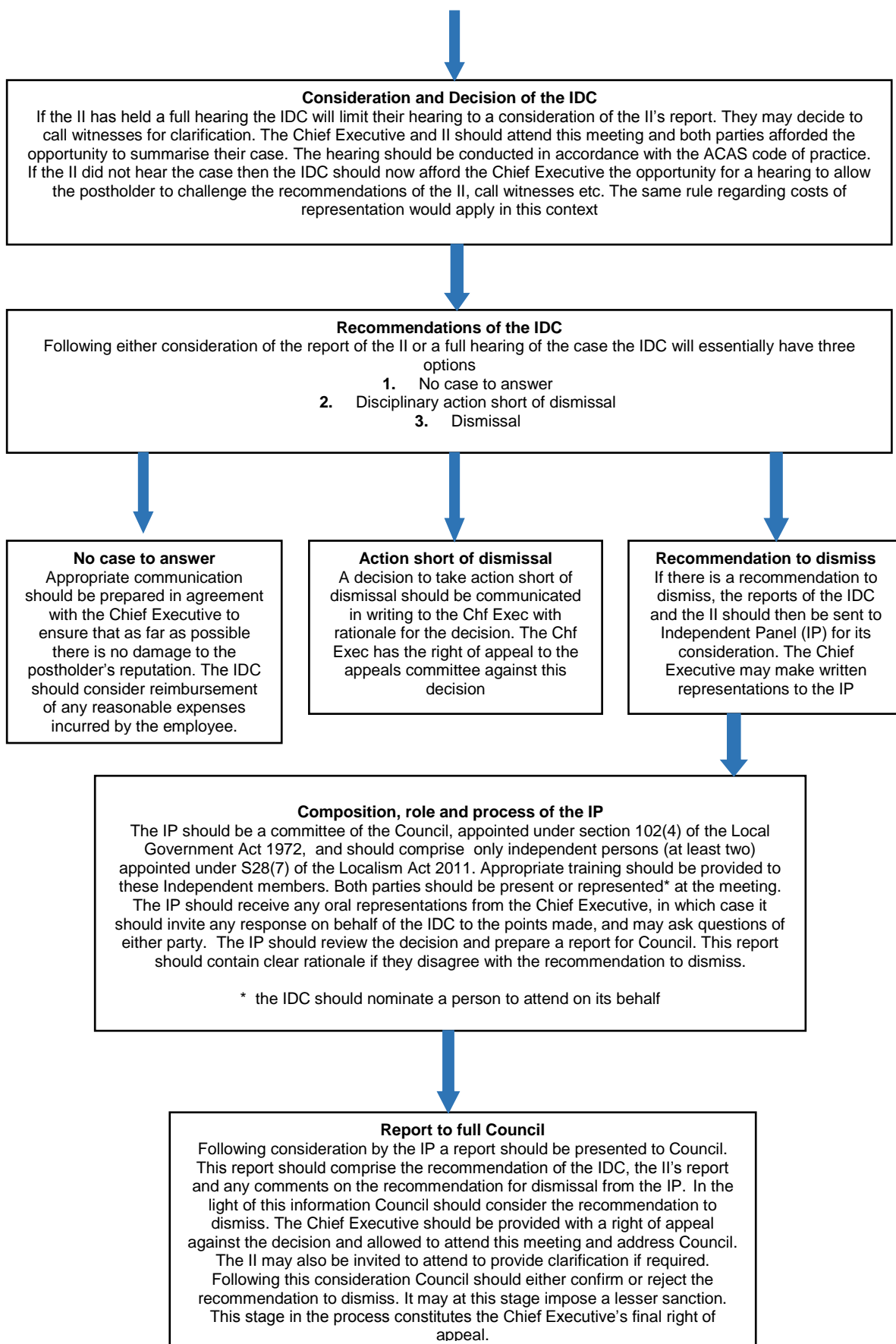
The Council will publish and follow Equal Opportunities policies in relation to the recruitment of all staff.

7.8. INTERPRETATION

For the purpose of these Rules unless otherwise indicated chief officer, non-statutory chief officer and deputy chief officer means a statutory chief officer, non-statutory chief officer or deputy chief officer within the meaning of the Local Authorities (Standing Orders) Regulations 1993), as amended by the Local Authorities (Standing Orders) (England) Regulations 2001. ~~and in relation to Rule 6 "disciplinary action" and "designated independent person" shall have the same meaning as in Schedule 3 of those Regulations.~~

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ENGLAND ONLY: Disciplinary Procedure for Local Authority Chief Executives



TERMS OF REFERENCE

STAFFING AND APPEALS COMMITTEE

MEMBERSHIP

A panel of five councillors. All councillors form a panel and are eligible to serve on the Committee with membership selected by the group leaders on a proportional basis as and when the Committee is required to sit. The members chosen to serve on this Committee may not also sit on the Investigating and Disciplinary Committee in respect of the same matter.

RESPONSIBILITIES

1. To decide all appeals made by employees of the Council against dismissal, suspension or other disciplinary action, relegation, grading or their rights under the National Provincial or Local Schemes of Conditions of Service in accordance with agreed local procedures and the relevant Scheme of Conditions of Service.
2. To hear appeals against action taken short of dismissal in relation to the Council's chief officers in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) and conduct any further investigation it considers necessary to reach a decision either to confirm the action or to award no sanction or a lesser sanction. ~~determine disciplinary, capability, grievance and appeal matters in relation to the Council's chief officers in accordance with the Local Authorities (Standing Orders) Regulations 1993 and the Local Authorities (Standing Orders) (England) Regulations 2001~~
3. To deal with all other employment matters which are not delegated to the Head of Paid Service and which are non- executive matters under the Local Authorities (Functions and responsibilities) (England) Regulations 2000
4. As a local choice function to determine an appeal against any decision made by an on behalf of the Council (except those made by the regulatory committees.

INVESTIGATING AND DISCIPLINARY COMMITTEE

MEMBERSHIP

A panel of five councillors, one of whom will be a member of the Cabinet. All councillors form a panel and are eligible to serve on the Committee with membership selected by the group leaders on a proportional basis as and when the Committee is required to sit. The members chosen to serve on this Committee may not also sit on the Staffing and Appeals Committee in respect of the same matter.

RESPONSIBILITIES

1. To conduct an initial assessment of the allegations against the Chief Executive or other issues under investigation
2. To consider whether it is appropriate to suspend the Chief Executive if an allegation is such that if proven it would amount to gross misconduct or if the continuing presence at work of the Chief Executive might compromise the investigation or impair the efficient exercise of the council's functions.
3. The Chairman of the IDC may suspend the Chief Executive immediately in an emergency if an exceptional situation arises whereby allegations of misconduct by the Chief Executive are such that his / her remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the authority.
4. To agree or authorise any protocols which are necessary to manage the suspension of the Chief Executive and the investigation.
5. To review the suspension of the Chief Executive after a period of two months has elapsed.
6. To decide whether to appoint an Independent Investigator to undertake a more detailed investigation of an allegation against the Chief Executive or other issues under investigation.
7. To appoint an Independent Investigator selected from the list maintained by the National Joint Secretaries, providing the necessary facilities, paying the remuneration and providing all available information about the allegations.
8. To consider the report of the Independent Investigator, and also give the Chief Executive the opportunity to state his / her case and to question witnesses, where relevant, before making a decision.

INDEPENDENT PANEL

MEMBERSHIP

A panel shall comprise of independent persons (at least two in number) who have been appointed by the council, or by another council, for the purposes of the council members' conduct regime under section 28(7) of the Localism Act 2011.

Invitations for membership of the Panel shall be issued in accordance with the following priority order, as and when the Panel is required to sit:

(a) an independent person who has been appointed by the council and who is a local government elector in the authority's area

(b) any other independent person who has been appointed by the council and

(c) an independent person who has been appointed by another council or councils

RESPONSIBILITIES

1. In a case where the Investigating and Disciplinary Committee (IDC) is proposing dismissal of the Chief Executive:

- to receive any oral representations from the Chief Executive,
- to invite any response on behalf of the IDC to the points made
- to review the decision and prepare a report for Council offering any advice, views or recommendations it may have to the council on the proposal for dismissal

Appropriate training should be provided for Independent Panel members.

Members of an Independent Panel may claim out of pocket expenses in relation to their work on the Panel.

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INTRODUCTION TO THE SCHEME OF DELEGATIONS

Introduction

1. Under the Local Government and Public Involvement in Health Act 2007 the Leader may delegate executive functions to an individual Cabinet Member or to a member of staff. Similarly under section 101 of the Local Government Act 1972 the Council may delegate its non-executive functions to a committee of the Council or to a member of staff.
2. This document sets out the functions (both Leader and Council functions) which have been delegated to staff and to staff in consultation with the relevant Cabinet Members. The references to staff are to the posts as currently titled but these will equally apply to the holder of an equivalent post in the future.
3. This document deals only with the standard delegations made by the Council and the Leader and does not cover temporary delegations for a particular purpose.

General Conditions and Limitations

4. The functions, powers and duties in this scheme are delegated to staff as set out. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions.
5. All staff exercising these delegations are to act in accordance with the Council's Constitution, Contract Standing Orders, Financial Regulations and any other protocols or other arrangements approved in pursuance to them.
6. The following are not delegated to any member of staff:
 - a. Any matter reserved to Council, the Leader or Cabinet or any other Committee or a member body having decision making powers, or any matter constituting a key decision;
 - b. Any function which by law cannot be delegated to a member of staff; and
 - c. The adoption of new policy or significant variation to existing policies and any matter which is contrary to the policy framework and budget of the Council.
7. When functions are delegated to a member of staff, the Leader (in relation to an executive function), or (in relation to non executive function) the Council, relevant committee or other member body with decision making powers may specify that a particular decision shall not be exercised by a member of staff but may be reserved or referred to the Council, Cabinet or other member body as the case may be.

Part 3 section (a)

8. A member of staff may decide not to exercise any function in relation to a particular matter and invite the Council, the Leader or Cabinet, or other committee or relevant member body having decision making powers, as appropriate, to do so instead. It is open to a member of staff to consult with appropriate councillors on the exercise of delegated powers or in deciding whether or not to exercise any delegated powers where the matter is likely to be controversial or contentious.
9. A member of staff with line management responsibility for the member of staff named in the delegation may exercise the power instead of the member of staff so designated, and may direct or negate any course of action proposed. In absence of a Deputy Chief Executive with line management responsibility, the Chief Executive may exercise that power.
10. A decision delegated to a member of staff by Council or the Leader can be taken by a staff member with line management responsibility for that staff member in his absence.
11. A member of staff to whom a power, duty or function is delegated may nominate or authorise another member of staff to exercise that power, duty or function, provided that such delegation is recorded in writing.
12. Any consultation with a Cabinet Member can be, in the absence of that Cabinet Member, with the Leader or Deputy Leader. Any consultation with the Leader can be, in his absence, with the Deputy Leader.
13. A decision delegated to a member of staff in consultation with the Chairman of a Committee may be taken in consultation with the Vice-Chairman if the Chairman is absent.
14. The Head of Corporate Governance shall have the power to amend delegations to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones.
15. The Head of Corporate Governance shall have the power to amend delegations to reflect changes in legislation, or references to legislation where such changes do not alter the nature of the existing delegation.
- ~~15.~~16. With respect to any reference to a delegation being exercised following consultation with any councillor, the decision is vested with the member of staff so delegated who shall be responsible and accountable for the decision. The member of staff so delegated is required to bring independent judgement to bear on the decision and the decision shall not consist of the member of staff adding an imprimatur of approval to what the councillor has decided. If the councillor consulted disagrees with the member of staff the matter should be referred to the Cabinet for agreement to exercise such delegated power.

Part 3 section (a)

~~16-17.~~ All enquiries about this scheme of delegations should be made to the Head of Corporate Governance and all matters of interpretation will also be determined by the Head of Corporate Governance.

Interpretation

~~17-18.~~ Any reference to a statute or statutory instrument shall be deemed to include and be construed as if it contained a reference to any subsequent statute or statutory instrument for the time being replacing, amending or extending the same or containing related provisions.

~~18-19.~~ The expressions 'officer', 'staff' or 'employee' includes any person employed by the Council irrespective of the particular National Scheme of Conditions of Service under which they are employed.

~~19-20.~~ The expression Chief Officer shall mean the Chief Executive, the relevant Deputy Chief Executive, the Monitoring Officer and the Chief Finance Officer.

Urgent Action

~~20-21.~~ In order to enable urgent action to be made, the Chief Executive has delegated power to take any decision which is not a key decision and which is so urgent that it cannot wait until the next scheduled meeting of the Cabinet and where the decision is not in contravention of established policies and does not fall within the authority of any individual member of the Cabinet to take.

~~21-22.~~ In following this procedure the Chief Executive is required to consult with the Leader of the Council in relation to a Cabinet function.

General Delegations to Chief Officers

~~22-23.~~ Subject to all specific delegations contained in this scheme, to take action on behalf of the Council where the proposed action conforms to any policy, strategy or development plan approved by the Council, the Cabinet or one of its committees and there is a budget provision.

~~23-24.~~ To delegate further, in writing, all or any of their delegated functions to other members of staff to exercise in their own name.

~~24-25.~~ To advise on policy development and formulation.

Emergencies

~~25-26.~~ The Chief Executive and all Chief Officers have power to take all necessary actions including incurring expenditure with regards to any emergency involving serious danger to life, property and public welfare. Any action taken under this provision shall be reported as soon as practicable to the Cabinet or Council as appropriate. If necessary and where legally possible Contract Standing Orders and Financial

Part 3 section (a)

Regulations shall be suspended during such emergencies. All expenditure incurred should be reported to the Chief Finance Officer who will report such expenditure to Cabinet where necessary under Financial Regulations.

Members' Code of Conduct Committee

25 April 2017



Title	Review of Petition Scheme – responses to petitions		
Purpose of the report	To make a decision		
Report Author	Gillian Hobbs		
Cabinet Member	Councillor Ian Harvey	Confidential	No
Corporate Priority	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
Recommendations	The Committee is asked to recommend Cabinet to agree the proposed changes to the Petition Scheme and recommend these to Council for approval.		
Reason for Recommendation	Providing Council with a wider choice of responses to petitions will allow it to respond in a more appropriate way to the matters that come before it.		

1. Key issues

- 1.1 In accordance with the requirements of the Local Democracy, Economic Development and Construction Act 2009, the Council adopted a Petition Scheme on 22 July 2010.
- 1.2 The Petition Scheme, which was based on a Model Scheme contained in the DCLG (Department for Communities and Local Government) statutory guidance, is available on the Council's website (www.spelthorne.gov.uk/article/3193/Petition-Scheme) and the procedure rules for presentation of petitions to the Council (or to Cabinet as appropriate), are set out in the Council's Constitution at Standing Orders paragraph 16.
- 1.3 The duty on councils to run a petitions scheme was abolished by the Localism Act 2011. However, the Council continues to run the previously adopted Petition Scheme in order to provide an opportunity for residents to express their concerns and priorities to their local authority.
- 1.4 Following the recent debate of a petition at Cabinet, members expressed concern that Standing Orders limit the options for responding to petitions in the most appropriate way and asked officers to investigate whether the options could be widened.
- 1.5 Even when the Council was required to have a Petition Scheme, the guidance allowed the Council to adapt the Model Scheme to its own requirements provided it fulfilled its statutory duty. Now that there is no longer a requirement to have a Scheme, the Council may adapt the Scheme as it sees fit.

2. Options analysis and proposal

- 2.1 The Constitution currently gives the Council the following options for responding to a petition:
- (a) support the action the petition requests
 - (b) dismiss the action the petition requests
 - (c) if the content relates to a matter on the agenda for the meeting the petition be considered when the item is debated; or
 - (d) the petition be referred to the Cabinet or Overview and Scrutiny Committee for further consideration
- 2.2 It is proposed to amend the options available to respond to petitions as follows:
- (a) take the action the petition requests; or
 - (b) not to take the action requested for reasons put forward in the debate; or
 - (c) note the petition and keep the matter under review; or
 - (d) if the content relates to a matter on the agenda for the meeting the petition be considered when the item is debated; or
 - (e) the petition be referred to the Cabinet or Overview and Scrutiny Committee for further consideration
- 2.3 The Council may alternatively choose to suggest other forms of wording for the options available to it to respond to petitions.

3. Financial implications

- 3.1 There are no financial implications arising from this proposal.

4. Other considerations

- 4.1 No other considerations have been identified.

5. Timetable for implementation

- 5.1 This proposal, if agreed, will be considered by the Cabinet on 11 May and Council on 20 July.

Background papers: Department for Communities and Local Government, [Archived statutory guidance on the duty to respond to petitions](#), March 2010

Appendices: There are none.