

Surrey Heath Borough Council

Council

26 October 2022

Governance Working Group

Head of Service Gavin Ramtohal – Head of Legal & Democratic Services
Report Author: Rachel Whillis – Democratic Services Manager
Key Decision: No
Wards Affected: n/a

Summary and purpose

To consider the recommendations from the Governance Working Group at its meeting on 30 September 2022.

Recommendation

The Council is advised to RESOLVE that

- (i) Article 13 – Decision Making at Part 2 of the Constitution be updated as set out at Annex A to this report;
- (ii) The Protocol for Nomination/ Appointment to Outside Bodies, one of the Documents Which Supports the Constitution, be updated as set out at Annex B to this report; and
- (iii) minor amendments to the Constitution, as set out at Annex C to this report, be agreed.

1. Background and Supporting Information

1.1 The Working Group considered a number of matters at its meeting on 30 September 2022, including:

- (i) Mandatory Training
- (ii) The Protocol for Nomination/ Appointment to Outside Bodies
- (iii) Minor amendments to the Constitution
- (iv) Scrutiny arrangements

1.2 This report sets out the Working Group's recommendations on the first three topics. In relation to scrutiny arrangements, the Working Group is recommending that the External Partnerships Select Committee is retitled as the External Partnerships Scrutiny Committee. However, consideration on

allocation of responsibilities between committees is ongoing and will be brought to a future meeting.

2. Mandatory Training

- 2.1 The Working Group reviewed Article 13 of the Constitution, which sets out the mandatory training that must be undertaken in order for Members to make decisions on specific matters. All requirements for mandatory training must therefore be proportionate, balancing the need to be trained in a specific subject matter with not precluding an elected representative making decisions on behalf of their community.
- 2.2 It is mandatory for Members to have attended training when:
- Determining planning applications and any other related consent applications
 - Determining applications for licenses under the Licensing Act 2003 and Gambling Act 2005
 - Hearing and determining complaints of member misconduct
- 2.3 The training above is considered by the Working Group to be proportionate due to the more technical and legislative factors that decision makers are required to take into account. It therefore continues to support this training being mandatory in order to make a decision on these matters.
- 2.4 Article 13 states that HR training must be received by all members of the Employment Committee in order to make any decisions considered by the Committee or its sub committees. The Working Group recognised that, whilst this was proportionate for Hearing and Appeals sub committees determining specific grievance or disciplinary matters, it was not proportionate for the items considered by the Employment Committee. It was therefore agreed to update the wording in the Article accordingly.
- 2.5 Whilst the Article states that Planning training must be received annually, it is silent on how frequent or recently Licensing or Standards training should be undertaken. The Working Group is recommending that training for planning should remain annual; however, all other mandatory training should be undertaken within two years of a Member making a decision and it was suggested that such training should be arranged in the first and third years of Members' terms of office.
- 2.6 The Article also requires all Members to have attended Equality training in order to make any decisions. Whilst the intent behind this requirement is recognised, in practice this is not enforceable and it is questionable that it is proportionate. The Working Group is therefore recommending that, although equality training will continue to strongly be encouraged, this provision should be removed from the Constitution.

2.7 The Working Group also made a number of other recommendations about training which would be considered at its next meeting when it reviews proposals for the Member Induction Programme 2023.

3. Protocol for Nomination/ Appointment to Outside Bodies

3.1 The Working Group reviewed the Protocol for Nomination/ Appointment to Outside Bodies, one of the Documents Which Supports the Constitution. The changes proposed principally relate to the updating of references within the document, but also includes proposals for a list of positions that will automatically be allocated to specific post-holders, which will help streamline the appointments process. In addition, further wording is included to prioritise local representatives being appointed where applicable, help ensure continuity of representation, and state the Council's position on not making appointments where no nominations have been received.

3.2 The Working Group also suggested that organisations included in the list of Outside Bodies should be reviewed. This will be undertaken in preparation for the new Council term starting in May 2023.

4. Minor Changes to the Constitution

4.1 The Working Group reviewed a schedule of minor changes to the Constitution and is recommending the adoption of these changes, as set out at Annex C.

5. Proposal and Alternative Options

5.1 It is proposed that the Council reviews the recommendations from the Working Group and agrees them, with or without any further changes it considers appropriate.

6. Contribution to the Council's Five Year Strategy

6.1 No matters arising at this time.

7. Resource Implications

7.1 There are no specific resource implications arising from the review.

8. Legal and Governance Issues

8.1 None, other than as set out above.

9. Monitoring Officer Comments:

9.1 Article 12 of the Council's Constitution recognises the Monitoring Officer's duty to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Annexes

Annex A – Revised Article 13 – Decision Making

Annex B – Revised Protocol for the Nomination/ Appointment to Outside Bodies

Annex C – Schedule of Minor Changes to the Constitution.

Background Papers

None