

FORMAL AND INFORMAL MEMBER BODIES **GUIDANCE NOTE FOR MEMBERS AND OFFICERS**

1.0 INTRODUCTION

- 1.1 The purpose of the guidance note is to provide Members and officers information on the establishment of member bodies. It also provides a useful guide to informal officer/member working within the Council detailing current arrangements and respective terms of reference. It will be a key document within the Council's Constitution.
- 1.2 The guidance note was requested by the Standards Committee of the Council, specifically in relation to the formation and operation of member/officer bodies both defined/not defined by the Constitution.
- 1.3 The Constitution is very clear on this matter:

“Under the current law, decisions on Council business can only be made either by properly constituted member bodies or by the officer(s) to whom that decision has been delegated. Chairmen, Leaders of Political Groups, Party Group meetings, Briefing meetings, etc, cannot lawfully make decision on behalf of the Council (Ref: Protocol on Member Officer Relations Part 5 – Paragraph 6.3).”

2.0 FORMAL MEMBER BODIES

- 2.1 The purpose of this section of the guidance note is to:-
- Provide the legislative framework for governance structures within the Council.
 - Current arrangements for formal working as defined in the Council's Constitution.
 - Advise when formal arrangements are appropriate.
 - Procedure for the establishment and approval of formal member bodies.
- 2.2 The Council operates under the Local Government Act 2000 which sets out the permitted forms of governance for local authorities in England (as amended by the Localism Act 2011).
- 2.3 The Constitution must also define the arrangements for the operation of: -
- Policy Committees (no more than five excluding regulatory, area and joint Committees)
 - Regulatory 'quasi-judicial' Committees

Membership of Committees is decided by full Council.

2.4 Current Arrangements – Formal Working

- 2.4.1 The Constitution provides the details of current Committees and other member bodies (Ref - Article 6) and role of Council (Ref – Article 4). Currently the Council has two Policy Committees, two Regulatory Committees, and one Joint Committee.
- 2.4.2 The Constitution defines the objectives, terms of reference, delegation to Committee and delegations to officers. The Constitution also provides for the establishment of Sub-Committees, Panels and Working Parties (CPR para 24 page 4(14)). In addition, the terms of reference for the Policy Committees in the Constitution allow for the appointment of Member Champions.
- 2.4.3 Part 4 of the Constitution sets out Rules of Procedure for Council and other member bodies. Paras 1-29 refer to full Council and they are applied to Committees and other member bodies with the exceptions defined in Para 27.2.
- 2.4.4 The Local Government and Housing Act 1989 (Section 15) and Local Government (Committees and Political Groups) Regulations 1990 also specifies the principles of proportionality in allocating seats on Committees between political groups on the Council. Proportionality does not apply to Joint Committees.

2.5 Why and when are formal arrangements appropriate?

- 2.5.1 Formal Member arrangements offer a means of ensuring that the Council meets the objectives of Local Government Act 2000 and other legislation and guidance, specifically:-
- Transparency
 - Accountability
 - Efficiency
- 2.5.2 Formal Member arrangements offer through the articles of the Constitution benefits to all those involved in the governance process.

Public: opportunities for attendance, participation in terms of public question time, petitions, public speaking (where appropriate) and public record of deliberations and decisions. Exempt items are specifically defined and restricted by Part 1 Schedule 12A of the Local Government Act 1972 (as amended).

Members: membership, proportionality (where appropriate), attendance, fulfilment of community role through public participation, transparency of interests, regulation of meetings, opportunities for call-in and scrutiny, and public record of deliberations and decisions.

Officers: clear and unequivocal decision-making process, written record of officer advice.

Council: adherence to legislation, minimising reputational and litigation risk.

2.5.3 When are Formal Member Arrangements Appropriate?

The key question for officers and Members of the Council in considering this issue is whether there is any intention that decisions will be made by Members by means of action, instruction to officers and/or recommendations to Committees or Council. If so, the formal procedure detailed below should be followed. Officers are advised, if in any doubt, to consult the Democratic Services Manager and Deputy Monitoring Officer.

2.5.4 Procedure for the Establishment of Member Bodies

All proposals for member/officer bodies not yet defined within the Constitution or covered in this guidance note (informal) should be referred to the Democratic Services Manager or Monitoring Officer. The Monitoring officer is also available to offer advice on the issues raised in para 2.7.3.

The Democratic Services Manager will advise on the establishment of the member body both in relation to the formal procedure for Council agreement and the responsibility of the lead officer, specifically timetabling, agenda planning, and terms of reference.

3.0 INFORMAL MEMBER/OFFICER WORKING

3.1 This section of the guidance note sets out the following:-

- The need for effective informal member/officer liaison and working
- The current scope and arrangements for informal member officer working
- Terms of reference of existing informal member bodies

3.2 Informal officer member working is commonplace and an essential part of the management and operation of a local authority. Nevertheless, there is a responsibility on such Councils to define clearly the benefits and parameters of such working and provide clear guidance to officers when more formal arrangements need to be adopted. This is even more important where there are no existing executive arrangements.

3.3 For the purposes of this document, adhoc meetings between officers/members, officer attendance of Group meetings, meetings to seek information/guidance are excluded from these arrangements.

3.4 Currently, informal member/officer bodies operating in the Council are listed below:-

- Group Leaders
- Chairman's Briefings
- Leader/Chief Executive Briefings

3.5 GROUP LEADERS

Group Leader meetings consisting of the Leaders and Deputies of the political groups within the Council. The role of these meetings was clarified in a letter from the Leader of the Council to the Leaders of the Liberal Democrats and Group of Independents (ref 23 October 2009 Leader/ls/GpLdrs Oct 2009).

“The Group Leaders meetings have no decision making powers and are not recognised by the Council’s Constitution”. Nevertheless, Group Leader’s meetings have undertaken a number of roles over many years of the Council. The meetings are especially invaluable during a period of no overall control” (ref 23 October 2009 Leader/ls/GpLdrs Oct 2009).

Group Leaders meetings are called, as required, to deal with particular issues and at particular times of the year (e.g. prior to Annual Council).

3.6 CHAIRMAN’S BRIEFINGS

Timetabled briefings take place regularly between the Chairman/Vice Chairman of a Member Body, lead officers/deputies, Service Managers and respective Democratic Services Officer who takes the notes. Other relevant report authors and officers attend when appropriate.

Its role can be summarised as follows: -

- review next agenda and make preparations for Chairman’s announcements;
- forward agenda planning including progress on agreed resolutions of Committees;
- public and press relations;
- ad hoc information items on key projects/operational matters;
- forum for formal consultation with the Chairman in line with agreed delegated powers

In addition to the Chairman’s Briefings, lead officers may meet informally with a Chairman prior to a Committee meeting to review proceedings and also, there may be briefings with opposition groups on request.

3.7 CHIEF EXECUTIVE/LEADER BRIEFINGS

These weekly meetings are crucial to the management and operation of the Council and are attended by other officers/members where appropriate.

Its role is multi-functional and variable, but includes: -

- update on progress on the implementation of decisions/policy
- review/response to Leaders correspondence where appropriate
- information sharing, including feedback from Management Team and Group Leaders
- preparation for inter authority liaison and meetings, including Combined Authority
- confidential management and staff matters

- update on the implementation of Corporate Priorities

3.8 The three bodies/meetings above represent the key methods of informal working. Members and officers will also have ongoing dialogue/liaison to undertake the business of the Council or fulfil the governance/community role of the Member.

3.9 In the event of additional structures of an informal nature being created (only after consideration of para 2.7.3) it is important to outline agreed terms of reference and to reiterate the non-decision making nature of the meeting.

3.10 MEMBER OFFICER RESEARCH AND FACT FINDING VISITS

There may be a requirement for Officers and Members to undertake site visits and external research to inform the decision making process. These activities can take place outside of the formal meetings of the Member body but, nevertheless, there is a requirement to feedback to the formal Member body (where appropriate).

4.0 CONCLUSION

This guidance note is intended to be a document which can be reviewed regularly by the Monitoring Officer.

John Hill, Chief Executive
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