

## Comments of the Constitution Cross Party Working Group

Article	Working Group Member Comments	Monitoring Officer Comments	Working Group Decision on Comments
3	3.1.a - This doesn't make reference to additional circumstances such as pandemic restrictions on public attendance. Could this leave the council open? Potentially there could be a line on public safety.		
3	7.1- "key interest groups" seems restrictive. Perhaps this could be changed to "representative interest groups"		
5	No mentioned of term limit for the Lord Mayor or Sheriff here. Is that an issue? It would also have to include circumstances under which the term could be extended if it were to be included.		
5	2.1- Is there need to note the current executive make-up here? Does this not encourage maintaining the current status quo?		
5	Wording on the appointment of the Sheriff to be included in the introduction to the article.	MO to work with Cllr Looker on wording to include.	Agreed.
7	2.1.b - It may have a legal term but "presumption of openness..." seems very vague to me. Is there a way to tighten this up to ensure openness?	Agreed to also include 'transparency'.	Agreed to also include 'transparency'.
7	2.1.f - Is it relevant to include reference to expert advice here?	MO advises for the purposes of this constitution, the Officers are the experts.	Agreed to remain.
7	3.1 - "Significant impact" here is again very vague when looking at electoral wards.  3.1 should key decision be £250,000 to match officer delegated power?	Remain. MO note this figure is to put restriction on Officer decisions.	All agreed for this to remain.

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	<p>3.1 – ‘is likely to’ - As assessed by who?                      Para 3.1 second bullet – are we happy that we understand what is meant by a ‘significant impact’? Should this decision be solely at the discretion of the Leader?</p>	<p>This is the sum the s151 is happy with.</p> <p>MO note the Leader is the ultimate decision maker of the council – MO to liaise with the s151, feed back to group.</p>	
7	<p>3.2 - This may be tricky, but where it’s the decision of the Leader which can then be subject to a call in, is there any way we can broaden that out to limit the inefficiency of call ins?</p> <p>3.2 – ‘of 3.1’ - But it doesn’t seem to relate to 3.1</p>	<p>Noted this is from the current constitution.</p>	<p>Agreed for scrutiny chairs to debate this.</p>
7	<p>4.1. (b) should “aims to” be included in a constitution? Either “will” or omit altogether</p>	<p>MO note this is the wording in the current constitution, “will” could be seen as too restrictive.</p>	<p>Further discussion required.</p>
7	<p>4.1d – ‘given’ - Given to who? Who decides if it is satisfactory?</p>	<p>MO advised this is the Leader in consultation with the Chief Operating Officer and/or Monitoring Officer.</p>	<p>Agree to add further clarity / wording on this.</p>
7	<p>11.1 Should any conflict of interest be recorded and publicly accessible?</p>	<p>MO note this is included in the minutes and register of interests.</p>	<p>No action.</p>
7	<p>13.1 - Similar to the number of executive roles I’ve raised previously, would it not be worth noting these figures for quoracy down (at least in the case of Full Council) as a percentage to cover in the event of expansion or reduction in number of councillors?</p>		

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	<p>13.1 Is Area Planning a committee in its own right or a subcommittee?</p> <p>13.1 – ‘quoracy’ - Nothing about political balance</p>	<p>Confirmed not a sub-committee.</p> <p>MO advise a decision can be made by Cllrs of any party as long as quorate.</p>	<p>Agreed.</p> <p>Agreed to include text that aims for political balance at committee meetings.</p>
7	<p>14.1a – ‘other Member bodies’ - Except LRG?</p> <p>Para 14.1 (c) – is it really necessary for there to a specified order of priority of subs for Planning Committee? I appreciate that this may be what is in the current constitution, but it seems to me to be pointless and unenforceable.</p> <p>14.1d – why?</p>	<p>Suggest this to be agreed by Full Council</p>	<p>Agreed to remove para 14.1c – para 14.1ci to become para 14.1c. Clarify exceptions for JSC and Licensing.</p>
12	<p>Para 5.3 (f) – gives the Chief Operating Officer delegated powers to enter into, amend or terminate an agreement with a value of up to £250,000. Is there any reason why this level of threshold was chosen? Is it in line with the current scheme of delegations?</p>	<p>The previous level of delegation in the ‘Distribution of Decision Making Powers for Companies’ was that <i>any</i> Council Director (not just the COO) could enter into, amend or terminate an agreement with a value of up to £500,000.</p> <p>The value of £250k aligns with the values in the amended Contract Procedure Rules (Appendix 11, Para 8.9). Given we are ensuring CYC’s Teckal companies remain Teckal compliant, it is important that the</p>	<p>Agree to remain.</p>

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		<p>delegations match those within the Council's procedure rules so that the requirement to 'exercise a similar level of control over the company to the Council's own departments' is met.</p> <p>The delegations as drafted in the amended Article effectively mean the delegations flow as such:</p> <p>Executive - £500k and above (in line with key decision threshold)                      Shareholder Committee - £250k-£500k (in line with Appendix 11, Para 8.10)                      COO – up to £250k (in line with Appendix 11, Para 8.9)</p>	
12	<p>3.6 is this all opposition groups or just the largest party?</p> <p>Should there be explicit reference to public participation in this section?</p> <p>How to address the issues discovered in MIY audit?</p>	<p>MO advised this is existing.</p> <p>MO to include.</p> <p>MO to liaise with corporate legal team and review this.</p>	<p>Agree to remain as is.</p> <p>Agreed.</p>
12	Reference to new title of Planning area sub committee	MO advised the planning team would like the committees to be Planning Major and Planning Minor.	Agreed.

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13	1.1- specify where the rules of proportionality are found	MO advised this will be part of the introduction.	Request to make reference to the introduction in the text in brackets.
13	1.3- question over the appropriate nature of executive members sitting on planning committees. Certain applications that are central to an executive's plan could reasonably give rise to a perception of predetermination. This is to say nothing of individuals involved in the process, who it is assumed take their position seriously and in good faith, but it is the reasonable perception here that is the issue.	MO noted guidance for this is referenced in the specialist code of conduct and would generally not be included here in the terms of reference. Advised this is existing and is a political decision.	Suggest if no agreement is made in this group, take to A&G and then Full Council for a decision.
13	5.e- could it be argued that these references to spouses/partners should be broadened to include close family?	MO advised this will be reviewed following the new model code.	
13	Para 5.1 (d) – members can call in a planning application in writing and must state the “planning reason(s) for the request”, but there is no advice as to what would be considered a valid “planning reason.” Maybe the constitution isn't the place to set this out, but it needs to be provided to members somewhere	MO to check if this is included in the separate planning protocol under development. Amend to 'A' Ward Councillor.	
16	How is the Housing Appeals Committee convened? Who can request a hearing and how?	MO confirmed tenants can request a hearing following communication with Officers, but these applications are rare.	
17	As 16. Who has rights to convene and how?	As above, however this committee is more frequent than the above.	

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1	Para 1 – ‘2 or more councillors’ – a minimum but no maximum?	MO advise legal maximum is 10.	Suggest to include this.
1	Para 2 – I do not understand this paragraph. This doesn’t fit with the definition in para 15. If executive functions are functions not otherwise specified in legislation, and the council can’t make executive functions, then the council can constitutionally only make decisions that they are legally required to.  Para 2 - Line 1 Should the actual legislation be stated, rather than “the law”?	MO will review to ensure it does make sense.	
1	Para 4 – can we please define what a ‘local area function is’? I can’t find a definition elsewhere in the document	MO will include.	Agreed to refer to as ‘local choice functions’
1	Para 6. First reference to “scheme”. Should it say “scheme of delegation (thereafter the scheme)”?	MO agreed.	Agreed.
1	Para 15 - Should this paragraph come first?	MO can duplicate this into the introduction section when written and also the beginning of this section.	Agreed.
1	Para 16 – Has Chief Officer been defined?	MO noted this is defined later in the appendix but will do the same as above.	Agreed.
1	Para 17 – ‘the focus would be on policy issues’ – should or must?	MO to reword.	Agreed to reword to ‘is on’
1	Para 18 – ‘the focus would be on service management issues’ – should or must?	MO to reword.	Agreed to reword to ‘is on’

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	<p>Para 18 – ‘no surprises policy’ – what does this mean?</p> <p>Para 18a - So officers CAN perform this function?</p>	<p>MO to include in speech marks.</p> <p>Yes</p>	<p>All to review.</p> <p>Agreed.</p>
1	Para 19 – ‘these would relate solely’ – should or must?	MO to amend to: are / will / must	Agreed.
1	Para 23c & 23d – how?	MO to remove section 23.	Agreed.
1	<p>Para 24a – ‘service plans’ - Has this been defined?</p> <p>Who carries out this function?</p>	MO to add definition to the introductory section.	Agreed.
1	<p><u>Functions of Full Council</u></p> <p>3g – ‘respectively’ – is this word needed?</p> <p>3. (m) not sure what this refers to</p>	<p>MO to remove.</p> <p>MO noted this is archaic but would be useful to remain.</p>	<p>Agreed.</p> <p>Agree to remain.</p>
1	<p><u>Matters for the Executive</u></p> <p>9l – ‘virement’ This is word well known by the general public?</p>	MO noted this is a technical financial word.	Remain.
1	<p><u>Executive Members’ Roles and Responsibilities</u></p> <p>15d - Projects, expenditures? What sort of things</p> <p>16b - Should this also apply when it is in the opinion of the council leader, or another executive member?</p> <p>17 – ‘unable or unwilling to act’ - Earlier on the document it implied that the Leader can make any decision delegated to another executive member</p>	<p>MO to merge this into 15c.</p> <p>Point to remain, but MO to reword.</p> <p>MO to reword with further clarity and will circulate wording to group.</p>	<p>Agreed.</p> <p>Agreed.</p> <p>Group to agree rewording.</p>

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	19- What are the implications of the executive positions being specified here if changes are made? Suggest an additional or subpoint is included to specify method of amendment (even if it's just to say that it's at the pleasure of the Leader)	MO noted this does need to be included.	Agreed to remain.
1	<p><u>Local Choice Functions</u></p> <p>Row 10 - Area planning subcommittee. Should this be described as Area Planning Committee?</p> <p>Row 17 - Does the licensing and regulatory committee also have a role?</p> <p>Row 21 - Powers to make should include "amend/revoke" standing orders</p>	<p>MO suggest to amend this to 'Development Control Committee'.</p> <p>No change.</p> <p>MO to include.</p>	<p>All to review name change and confirm to MO.</p> <p>No change.</p> <p>Agreed.</p>
1	<p><u>Officer Scheme of Delegation</u></p> <p>Para 4 - Should this be defined earlier in the document? The term has already been used multiple times</p> <p>Para 5. Should there be reference to how it can be reviewed and by whom?</p> <p>Para 8 – 'ward members matters' - Move to earlier in the sentence</p> <p>Para 10 - Should this be earlier? Chief officers have already been referred to several times</p> <p>10. Should it include Chief Finance Officer?</p> <p>Para 11 – 'recorded' - Publicly available?</p>	<p>MO to include this in the introduction.</p> <p>MO confirmed oversight is via COO, MO and S151. Remain but MO to include a comma. MO to include in introduction.</p> <p>No change. MO noted all decisions are reported on the website. Change to 'recorded and published'. Remove 'the'.</p>	<p>Agreed.</p> <p>Agreed.</p> <p>Agreed.</p> <p>Agreed.</p> <p>No change. Agreed.</p>



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	<p>Para 16 – ‘authorised or proper Officers’ - This needs defining</p> <p>Para 25b - Or an officer carrying out a relevant function? Is this a current position?</p>	<p>MO to include definition.</p> <p>MO to amend to new committee name. Yes current position.</p>	<p>Agreed.</p> <p>Agreed.</p>
1	Page 33, para t – ‘early retirement’ - already covered in point r	MO to include ‘to’ (other staff).	Agreed.
1	<p><u>Head of HR</u> (f) £100,000 seems too high</p> <p>10(k) Should there be an upper limit included?</p>	<p>MO to liaise with Head of HR to clarify this. (include I) - MO to speak to s151 to clarify this.</p>	
1	<p>Page 41, para 15d – ‘of account’ – should this be or?</p> <p>Page 42, 17b - Shouldn’t this be full council?</p> <p>Page 45, para 22 - Is this a current position?</p> <p>Page 46, para 25c - No mention of civil partnerships</p> <p>Page 57, para 36 – Chief Planning Officer - I thought that we now had a ‘Head of Planning’ rather than a ‘Chief Planning Officer’?</p> <p>Page 61, para 46 – what does this mean?</p> <p>Page 78, row 11 - and other sex establishments, sexual entertainments venues</p>	<p>MO to check with CFO.</p> <p>Remain.</p> <p>Yes.</p> <p>MO to include.</p> <p>Name to be determined.</p> <p>MO to clarify with Director of PH.</p> <p>MO to include.</p>	<p>Agreed.</p> <p>Remain.</p> <p>Agreed.</p> <p>Agreed.</p>

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	<p>Page 80, row 49 – why is this here</p> <p>Page 80, row 54 – why is this here</p> <p>Page 82, row 10 – LRC?</p> <p>Page 82, row 13 - Earlier in the document I think it says council have this power</p> <p>Page 86, row 30a - Doesn't this power belong to the Secretary of State? Should this be or, not of?</p>	<p>MO noted this is archaic. Remain but MO to update.</p> <p>MO to check this.</p> <p>No change.</p> <p>MO to check this.</p> <p>MO to include 'temporary'.</p>	<p>Agreed.</p> <p>Agreed.</p> <p>Agreed.</p>
2	4.1e - Is there a way to appeal this?	MO noted this is the council's current petition scheme. Include wording to confirm rejected petitions will be referred to CSMC.	<p>Agreed.</p> <p>8.1 – suggest to add in circumstances where petitions are rejected, member of public informed and will be referred to CSMC.</p>
3	<p>3.1 m – what does this mean?</p> <p>3.1 s - another appendix says this is the responsibility of an officer.</p>	<p>No change.</p> <p>Amend as discussed.</p>	<p>No change.</p> <p>Agreed.</p>
3	Para 7.2 – amend 'five clear days' to read 'five working days'. This is repeated elsewhere in the constitution	MO to amend.	Agreed.
2	9.3- addition after "proposed and seconded": "and which shall specify the time for the extension."		

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3	Para 10.4 – so a member of the public can ask a question, but how is it answered? Does the Leader or Exec Member provide an immediate oral answer?	Discuss further with appendix 8 – circulate to group. To include discussions on 10.2.	
3	Para 10.5 – ‘two working days’ – is this a change?	MO confirmed this is a permanent change.	Discuss further next week with app 8.
3	Para 10.10(b) – maybe consider here (and elsewhere in the constitution) if we want to be more specific and refer to a personal attack on a <u>named</u> officer or member?	No change.	No change.
3	11.1- After “The Leader of the Council will be elected by Council and will hold office for a period of four years” add the phrase “or until the next council elections”	MO to review all further App 3 queries offline in advance of the next committee meeting.	
3	11.3 should it have any provision for a contested issue or alternative political group in the case of a hung council?  11.3 - so a new Leader would be elected as next item of business, but how would this work in practice? I presume that anyone (including the deposed Leader?) could be proposed and seconded and then it would be put to a vote? With or without debate?		
3	Para A2 1(f) – there is a reference here to ‘political balance rules.’ Are these defined elsewhere?		
3	A4 1 – I don’t like the term ‘clear majority.’ Can we instead say something like ‘there is not over 50 per cent of votes in favour...’? This is repeated elsewhere in the constitution		

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3	Para B8 – would this section on the Deputy Leader’s report become redundant if there was a single party running the council rather than a multi-party administration?		
3	B9.1- addition after “submit a written report”: “decided by rotation.”		
3	<u>B13. Motions on Notice</u> Scope - should be a reference to how motions are allocated (proportionality)		
3	B13 6 – need to add at the end that the member will be told the reason why the motion had been rejected		
3	<u>B15. Notice of Amendments</u> 3. If there is a dispute the Director of Governance should record that the amendment does not negate the effect of the motion and why		
3	Para B16 2 – replace ‘a Member is to stand’ with ‘a Member is to stand if able to’		
3	Para B21 2(b) – what happens if a motion to move to the vote happens during a debate on an amendment rather than the main motion? This doesn’t seem to be catered for here		
6	4.1 d planning sub committee	Will be amended following renaming of committee.	Agreed.
6	6.11 b Do we really want to keep this rule?  6.11 i) insert “of the same political group unless independent”	Will be removed following discussion on previous document. To be agreed by Full Council.	Agreed.
7	7. Any reference to webcast retention and availability required?	MO to liaise with Webcast Manager & ICT.	

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7	11.1 will the reason for exclusion of access to information be recorded	MO noted this is already available on the papers.	
7	27.1 c adviser or advisor (elsewhere adviser is used) Should Chair of A&G have access to excluded information if relates to either finance or governance?	Amend to adviser for consistency. MO advised not automatically but can be requested.	
8	9. Guildhall or alternative venue	MO to include this. Also remove 'hybrid' reference.	Agreed.
8	14. Planning sub committee	Already discussed.	Suggest to include reference to chair's discretion with regards to timings.
8	Para 15 – it is not usual at council meetings, other than Planning, for members to ask questions of public speakers. I had always assumed that wasn't allowed	MO to add those meetings that are excluded. Take first part of para 14 and add to this para.	
8	17. Define "attack"	MO to amend as per working group comments and add 'in the view of the Chair'. Will also review the council procedure rules.	Suggest to lower the threshold on this.
8	18. Planning sub committee	As above.	
8	Para 27 – are we saying here that someone can e-mail their comments to Dem Services so that a member of the team can read them out at a Planning committee meeting? I don't think this is what is intended here but it could be interpreted that way	MO to include.	Suggest to add that it is Chair's discretion whether comments are received and summarised or read out by the Chair. Includes both remote and in-person.
16	Para 13.1 – replace 'Ward Members should be notified at the outset' with 'Ward Members should be notified in advance'		
17	4.6- this follows from my point on executive members on planning. I would contend from a theoretical point that in cases where there is a planning		

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	application that is core to an administration's plan, then an executive member should not sit on planning as it gives a reasonable perception of them being predetermined in the same way as described in the second half of this point.		
22	Para 5.1 – is it worth clarifying here that members of the public and press can film or record at a council meeting <u>from the seating area assigned to members of the press and public?</u>		
23	Para 10 – if a remote attendee drops out of a Zoom meeting, can they re-join by phone and still be counted as 'present'?		