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## **TO REVIEW CONSTITUTIONAL PROCEDURE RULES RELATING TO MOTIONS ON NOTICE, QUESTIONS AND CALL-IN**

To: **Council – 18 April 2013**

By: **Harvey Patterson, Corporate & Regulatory Services Manager**

Classification: **Unrestricted**

Ward: **N/A**

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**Summary:** **To consider whether amendments are required to the Council Procedure Rules relating to motions on notice and questions and to the Overview & Scrutiny Procedure Rules relating to call-in.**

### **For Decision**

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#### **1.0 Questions and Notices of Motion relating to conduct of Members**

- 1.1 Recently, there have been occasions where Members have submitted to full Council questions and motions on notice which have related to the ethical conduct of other Members. Although the Monitoring Officer accepted those questions and motions on the basis that the current council procedure rules did not preclude them, he did feel, nevertheless, that it was inappropriate for matters of ethical conduct relating to individual Members to be the subject of discussion and debate at Council meetings for the reason that the ethical conduct of members is regulated by the Members Code of Conduct and the procedures adopted by the Council for dealing with complaints alleging a breach of the Code, none of which conceived any role for full Council as a complaints resolution forum.
- 1.2 At its meeting on 7 March 2013, the Constitutional Review Working Party recommended that Council Procedure Rule (CPR) 14.5 (Scope of questions) be amended to preclude questions that relate to ethical conduct of individual Members, and that CPR 16.4 (Scope of Motions on Notice) be amended to preclude motions on notice that relate to the ethical conduct of individual Members.

#### **2.0 Call-In and the Policy Framework**

- 2.1 Overview & Scrutiny Procedure Rule 15.0 provides that any decision of Cabinet is subject to Call-In. This leaves open the question of whether a Cabinet decision in relation to the adoption of a policy or procedure that forms part of the Council adopted Policy Framework can be Called In. It is, however, the view of the Monitoring Officer that the right of Call-In should not apply to Policy Framework documents for two reasons. Firstly and most importantly, the policies and plans of the Council that form part of the adopted Policy Framework are in fact approved by full Council, albeit on the recommendation of the Cabinet, and secondly, prior to approval by full Council, the Overview & Scrutiny Panel must be formally consulted.
- 2.2 Consequently, as the Constitution already mandates pre-decision scrutiny of all Policy Framework documents, OSPR 15.0 (a) should be amended to make it clear that the

right of Call-In will not apply to Cabinet recommendations made in relation to the approval of a policy or plan forming part of the Council's adopted Policy Framework.

2.3 On 7 March 2013 the Constitutional Review Working Party recommended:

- a. Approval of changes to Council Procedure Rules 14.5 and 16.4, as set out at Annex 1; and
- b. Approval of the following change to Overview & Scrutiny Procedure Rule 15.0 (a):

***"15.0 Call-In***

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the appropriate Overview and Scrutiny Panel have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making). **It shall not apply to Cabinet recommendations made in relation to the approval of a policy or plan forming part of the Council's adopted Policy Framework.**

**3.0 Recommendations of Standards Committee**

3.1 On 3 April 2013, Standards Committee recommended:

- a. That the changes to Council Procedure Rules 14.5 and 16.4, as set out at Annex 1, be approved; and
- b. That Overview & Scrutiny Procedure Rule 15.0 (a) be not changed.

**4.0 Corporate Implications**

**4.1 Financial and VAT**

341.1 None

**4.2 Legal**

4.2.1 Any changes to procedural rules will require the Council's constitution to be amended.

**4.3 Corporate**

4.3.1 The Council's constitution sets out the rules governing the Council's business.

**4.4 Equity and Equalities**

4.4.1 None apparent

**5.0 Recommendation**

5.1 That Council considers the recommendations of the Standards Committee

## 6.0 Decision Making Process

6.1 This is a matter on which only Council can take a decision.

Contact Officer:	<i>Harvey Patterson, Corporate &amp; Regulatory Services Manager and Monitoring Officer, Ex 7005</i>
Reporting to:	<i>Dr Sue McGonigal, Chief Executive and S. 151 Officer, Ex 7002</i>

### Annex List

Annex 1	Suggested amendments to Council Procedure Rules 14.5 & 16.4
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### Background Papers

Title	Details of where to access copy
<i>None</i>	

### Corporate Consultation Undertaken

Finance	<i>n/a</i>
Legal	<i>n/a</i>