

SUPPLEMENTARY AGENDA

Corporate Resources Overview & Scrutiny Panel

Date: **Tuesday 12 November 2013**

Time: **10.00 am**

Venue: **Edwards Room, County Hall, Norwich**

Supplementary Item follows:

9. Report of the Constitution Advisory Group

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Report by the Chairman of the Constitution Advisory Group

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**Report of the Constitution Advisory Group (CAG)
Part 1 - Annual Review of the Constitution - 2013**

Report of the Chairman

This report sets out the recommendations of the Constitution Advisory Group (CAG), which has carried out its annual review of the Council Constitution.

After consideration of a wide range of issues, CAG has reached a number of conclusions as to changes to the Constitution it wishes to recommend. These recommendations are presented to the Corporate Resources Overview and Scrutiny Panel for consideration prior to submission to full Council on 25 November 2013, alongside the separate report on a Committee Structure form of governance.

Action required

The Panel is asked to consider the CAG recommendations detailed in this report and its appendices and decide which should be submitted to Full Council and the Leader for approval.

1. Introduction

1.1 CAG has considered a number of issues which have been raised in relation to the annual review of the Constitution as follows:-

- (i) Position of Chairman of Council as Ex-Officio member of the Standards Committee
- (ii) Officer Code of Conduct
- (iii) Procedure Rules for Full Council meetings
- (iv) Contract Standing Orders
- (v) Delegation of Executive Powers to Head of Law and Director of ETD
- (vi) Chief Fire Officer Delegation
- (vii) Article 12 - Officers
- (viii) Public Questions – Supplementaries
- (ix) Standards Regime - Appendices 18A, 18B
- (x) Public Protection
- (xi) Flood and Water Management Act 2010 – Delegation to Director of ETD

1.2 These issues are explained in detail within this report and the appendices attached to it. The timetable for consideration is:-

- Corporate Resources OSP - 12 November 2013
- Full Council - 25 November 2013

1.3 If any of the issues require further research and consideration before decisions can be taken, the timetable for changes relating to those issues may consequently be delayed.

2.0 Position of Chairman of Council as Ex-Officio member of the Standards Committee

2.1 When the Standards Committee was first established in 2000, it was on a non-Widdecombe basis, as required under the Local Government Act 2000. In establishing the Committee, Council decided that the Chairman of the Council would chair the Committee and that position continued until 2003, when Council agreed that it would be chaired by one of its Independent Members. The Chairman of Council remained as an ex-officio member of the Committee. In 2005 the Committee was reconstituted with only 3 County Council members (1 from each of the 3 main political groups) and 5 Independent Members. Council did however agree that the Chairman of the Council would be entitled to attend meetings of the Committee on an ex-officio, non-voting basis. That position is set out in Article 5 of the Constitution (Chairing the Council)

2.2 This composition remained the position until last year when the Localism Act 2011 removed the requirement to have a Standards Committee but stipulated that if a local authority decided to maintain a Standards Committee, it had to appoint to it on a politically balanced basis. This Council decided to have a committee of 7 and the composition is currently 4 Conservative, 1 Labour, 1 UKIP and 1 Liberal Democrat. This raised an issue of whether it is appropriate for the Council Chairman to continue to be able to attend meetings as an ex-officio, non-voting member. Although that position is non-voting, the perception might be that this gives the political group to which the Chairman belongs a level of influence that does not reflect the political balance requirement. CAG has therefore reviewed this particular element of role of the Chairman of the Council. However, CAG has concluded that as the Chairman's position on the Committee is a non-voting one, there is no inappropriate effect upon the political balance and that the involvement of the Chairman is a useful provision. CAG does not therefore wish to propose any change.

3.0 **Officers Code of Conduct**

3.1 Appendix 19 of the Constitution is titled "Officers' Code of Conduct". This Appendix was included in the Constitution originally approved by Council in 2001 but it has no content – it simply states "To be issued by Central Government." Its inclusion in the Constitution was on the basis that the Local Government Act 2000 stipulated that the Secretary of

State may by order issue a code as regards the conduct which is expected of employees of relevant authorities in England.

- 3.2 No such code has ever been issued by the Secretary of State. As a consequence of the Government's changes to the local authority standards regime, the relevant section of the Local Government Act 2000 has been disapplied as regards England and the reference to an Officers' Code of Conduct could be removed from the Constitution. CAG was pleased to note that an officer statement of standards of conduct and behaviour is in place and that the requirements of the 2000 LG Act have been superseded by the changes to the standards regime. Consequently CAG **Recommends** that the current Appendix 19 be deleted and instead be retained as a spare appendix in case additions need to be made to the Constitution at a later stage.

4.0 **Procedure Rules for Full Council Meetings**

- 4.1 The Procedure Rules for Full Council meetings are set out in Appendix 9 of the Constitution.
- 4.2 These have been reviewed and one issue has arisen, which CAG has considered.

Council Budget Meeting

- 4.3 It is custom and practice that the agenda for the Council meeting in February each year is limited to consideration of the Council Plan, Budget and the Annual Investment and Treasury Strategy for the next financial year. However, although the Procedure Rules state that a full Council meeting will be held in February each year to determine the Council's budget, they do not stipulate that business at that meeting will be limited to the budget and its associated items.
- 4.4 The omission of any such stipulation leaves open the possibility that a Member could give notice of a motion or a question, putting the officers in the difficult situation of having no constitutional authority to reject them. It would appear to be the clear will of Council that there should be no other items considered at the February meeting and therefore **Recommends** that the Procedure Rules be amended to include such a stipulation, with a caveat that the Chairman has discretion to accept additional items other than those relating to the budget, but only in exceptional or urgent circumstances.

5.0 **Contract Standing Orders**

- 5.1 Contract Standing Orders are set out in Appendix 17 of the Constitution. These have been reviewed by the Head of Procurement, who wishes to recommend some relatively minor amendments which he considers to be necessary. These are set out in the attached report

at Annex 1, which CAG has considered and CAG **Recommends** that the changes proposed in the report be approved.

6.0 **Delegation of Non-Executive Powers to Head of Law and Director of Environment, Transport and Development**

6.1 Appendix 7 of the Constitution sets out the Scheme of Delegated Powers to Officers (Non-Executive Functions).

6.2 There are some minor changes considered necessary to the Head of Law and the Director of Environment, Transport and Development delegations to reflect changed circumstances. These are as follows:

(i) Director of ETD –

(a) “To divert, stop up and extinguish footpaths and bridleways”.

(b) “To create footpaths and bridleways by agreement or by order”

(c) “ To authorise temporary disturbance of the surface of footpaths or bridleways”

(d) “To temporarily divert footpaths and bridleways”

Restricted byways can now also be created/diverted/extinguished under the Highways Act 1980 and so they should be added to the specific delegations in (a) to (d) above;

(ii) Head of Law – “To reclassify roads used as public paths”. This delegation is no longer relevant as the power to make these orders has been repealed and so should be deleted;

(iii) Head of Law – “To register common land or town and village greens and to register variation of rights of common”. This delegation should be amended to make clear that it also includes the power to determine applications for the registration of land as new Town or Village Green.

CAG has considered this issue and **Recommends** that the changes proposed in (i) to (iii) above be made.

7.0 **Chief Fire Officer Delegations – Appendix 6**

7.1 Appendix 6 sets out the Scheme of Delegated Powers to Officers (Executive Functions). Determination of the Scheme is a matter reserved to the Leader of the Council but it is open as part of the Constitution review process for recommendations to be made to the Leader for changes.

7.3 The Scheme currently includes the appointment of certain postholders as Inspectors under Section 19(1) of the Health and Safety at work Act 1974 and authorises the postholders to exercise certain powers under the Act. The postholders are the Chief Fire Officer, the Deputy Chief

Fire Officer and Area Managers. The Chief Fire Officer has requested that the list of postholders be extended to include Brigade Managers and CAG **Recommends** that the Leader be asked to approve this change to Appendix 6.

8.0 **Article 12 – Officers**

8.1 Article 12 describes the role of the Council’s Chief Officers. The Chief Fire Officer’s role is currently described as fire prevention and operational fire fighting but he has suggested that this be extended to include “regulatory fire safety” and “Integrated Risk Management Planning”. It is the duty of the Authority to determine the emergency response for its area, in terms of the role, responsibilities, resources and performance standards of the fire and rescue service it provides. It is required to do this via a formalised process of “Integrated Risk Management Planning”. The Chief Fire Officer is also required to exercise the Council’s functions under the Regulatory Reform (Fire Safety) Order 2005

CAG **Recommends** that this change be made.

9.0 **Public Questions**

9.1 Public questions can be asked at meetings of the Cabinet and Overview and Scrutiny Panels. The rules governing public questions are set out in Appendices 10 and 11 of the Constitution.

9.2 Representations have been received from a member of the public expressing concern about the procedure regarding supplementary questions. The concern expressed is that the current procedure gives the questioner an opportunity to pose a supplementary question but not to challenge the answer to that question. The member of the public considered that he received an inadequate reply to his supplementary question and that he should have had an opportunity to challenge the reply. He therefore would like the procedure to be changed to provide for members of the public to have the opportunity to challenge the verbal response to their supplementary question. CAG has considered this suggestion.

9.3 CAG did not consider that there needed to be a change to the process, being concerned that the proposal could change the nature of the process from being one of public questions into the area of public debate. Members of the public were able to challenge responses by emailing the Member concerned after the meeting CAG felt that the key to managing public questions effectively was good chairmanship but that it would be a useful addition to provide questioners with a guidance note to explain their options if they are not satisfied with the answer they receive. CAG therefore does not wish to recommend any change to the Procedure Rules.

10.0 **Standards Regime - Appendices 18A, 18B**

10.1 In May 2012, following the implementation of the Localism Act 2011, the County Council agreed revisions to the Standards regime, including a new Code of Conduct for Members, new remit for the Standards Committee and new arrangements for dealing with standards complaints. The resulting changes were incorporated into the relevant parts of the Constitution as per the Council's decisions – these being:-

- Article 3 – The Public and the Council
- Article 9 – The Standards Committee
- Appendix 9 – Council Procedure Rules
- Appendix 18 – Members Code of Conduct
- Appendix 26 – Monitoring Officer Protocol

10.2 Then in July 2012, Council was advised of the Government's new regulations relating to Disclosable Pecuniary Interests and agreed to amend its Code of Conduct accordingly. There are some amendments that need to be made to other parts of the Constitution to reflect all the changes to the Standards Regime. These are:-

- Appendix 18A – Planning Procedures Code of Best Practice
- Appendix 18B – Gifts and Hospitality – A Code of Conduct for Members

10.3 These documents are attached at Annex 2 with the proposed amendments shown as track changes. CAG **Recommends** that the proposed amendments be approved.

11.0 **Public Protection**

11.1 The Public Protection section of Environment, Transport and Development delivers Trading Standards, Town and County Planning and Resilience functions of the Council. The Director of ETD has reviewed the provisions within the Constitution relating to the Public Protection Service and wishes to recommend a number of constitutional changes. The issues and recommendations are set out in the attached report at Annex 3. CAG has considered the report and **Recommends** that the proposals within it be approved

12.0 **Flood and Water Management Act 2010 – Delegation to Director of ETD**

12.1 Under the Flood and Water Management Act (FWMA) 2010 a number of statutory duties and functions now fall on the County Council in its role as a Lead Local Flood Authority. To reflect the need to carry out these functions an amendment is proposed to Appendix 6 of the Constitution. Full details are set out in the attached report at Annex 4

CAG **Recommends** that the Leader be asked to approve the proposed amendment to Appendix 6.

13.0 **Conclusions**

13.1 CAG considers that the changes to the Constitution proposed in this report will lead to improvements in the way in which the Council conducts its decision making processes.

13.2 Recommendations agreed by the Panel will need to go to Full Council for consideration and approval, apart from those recommendations that relate to matters that are for the Leader to determine. Those are the recommendations regarding changes to Appendix 6 (Scheme of Delegation of Executive Powers to Officers) as documented within sections 7, 11 and 12 of this report.

14.0 **Action for the CROSP**

14.1 The Panel is asked to consider the CAG recommendations detailed in this report and its appendices and decide which should be submitted to Full Council and the Leader for approval.

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Gsi/reviewnov2013

Constitution Advisory Group

Revised Template
Minor Amendments to Contract Standing Orders (CSO)

Report by the Head of Procurement

Summary

This report highlights some relatively minor changes to Contract Standing Orders (CSO) - Appendix 17 of the Council Constitution - that have arisen from misunderstandings, or misinterpretation, of the listed paragraphs and sections.

There is also a request to change authorisation personnel from Head of Finance to Head of Procurement in the case of Single Quote Exemptions to CSO.

Recommendation:

That the Constitution Advisory Group supports the recommended changes to Contract Standing Orders (CSO)

1. Background

- 1.1 Contract Standing Orders were last revised in September 2011. Occasionally there is a need to amend parts of CSO when it becomes apparent that users are not understanding, or misinterpreting, particular items.

2. Proposed Changes

- 2.1 The remaining paragraphs in this section outline the changes proposed to CSO, along with a brief reason for the change, where applicable. Text and items to be replaced in CSO are shown in italics to separate them from other text.

- 2.2 CSO Paragraph 9.11 - Replace with:

In exceptional circumstances, any requirement to seek more than one tender or quotation may be disappplied, subject to the relevant law. In these circumstances, with the prior written approval of the Head of Procurement and Head of Law, goods and services may be procured by single tender or quotation, or by negotiating with one or more suppliers without prior advertisement. Exemptions resulting in the letting of contracts valued at more than £100,000 must be made in consultation with the Cabinet Member.

Reason: Users misunderstood the previous references to exemptions allowed under the Public Contract Regulations

- 2.3 CSO Paragraph 19.1 - Replace current table with:

Process to be used	Estimated Total Value (excl VAT)	Higher Limit if approved by Head of Procurement	Additional Requirements
Single Quote <i>May be used with a select list</i>	Up to £1,000 (or £5,000 if approved by Head of Service)	£75,000 for Part A services. £200,000 for Part B Services and concessions. £100,000 for Works	N/A
Three or more quotes <i>May be used with a select list</i>	Up to £50,000	Up to EU Threshold	In these cases the requirement should be subjected to the "Wider Interest Test" as outlined in Section Error! Reference source not found.
Tender Process Advertised via Contracts Finder <i>May be used with a select list</i>	Up to EU threshold		
EU Tender Process Advertised via Official Journal of the European Union (OJEU)	Over EU threshold see http://www.ojec.com/Threshholds.aspx ¹		

Reason: Users previously found the different people who could authorise Single Quote Exemptions (for different circumstances) confusing. The number of options has decreased to simplify matters, and moved from Head of Finance to Head of Procurement. There is also requested increase to the Part B Single Quote Exemption, in line with forthcoming changes to EU procurement law regarding Part B Services.

- 2.4 CSO Paragraph 20.4 - Delete this paragraph. This will also require deletion of paragraph 10.5, an amendment to paragraph 20.5 and the deletion of the entry in the Summary of Main Responsibilities, Chief Officers - that refers to paragraph 20.4.

Reason: The changes to the process table above have negated the need for paragraph 20.4.

- 2.5 CSO Section 22 - Add new paragraph at 22.1 (subsequent paragraph numbers will also change) to give definition of a Select List as follows:

A Select List is a list of pre-qualified suppliers used for running quotations or non-EU tenders.

¹ Please note the additional "h" in threshold is not a spelling error this is the actual web address of the OJEU threshold site.

- 2.6 CSO Paragraph 23.1 - Replace “its tender point” with “*the tender point.*”
- 2.7 CSO Paragraph 23.2 (b) - Delete paragraph as no longer required due to changes to authorisation table highlighted earlier in this report.
- 2.8 CSO Paragraph 26 - Replace “relevant threshold” with “*tender point*”
- 2.9 In CSO Glossary section - Add definition of Aggregated Value as follows:

*The **aggregated** value refers to the total cost for the requirement, over the whole life of the contract. It is a breach of English and EU Law to artificially dis-aggregate a requirement, so that the total value falls below EU Thresholds.*

Reason: The term “aggregated value” is referred to several times in the main text of CSO without being defined. Thus a new entry is required in the glossary.

3. **Resource Implications**

Minor level of administrative resource required to make the amendments to the master constitution document, if changes are approved.

4. **Recommendation**

- 4.1 That the Constitution Advisory Group endorses the changes to Appendix 17 of the Council Constitution, as outlined in Section 2 of this report.

Background Papers

Council Constitution - Appendix 17, Contract Standing Orders.

Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

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APPENDIX 18A

PLANNING PROCEDURES - CODE OF BEST PRACTICE

1. Introduction

- 1.1 At its meeting on 12th May 2003 the County Council adopted this Code of Best Practice for dealing with planning applications and related matters. It takes account of the recommendations of the Third Report of the Nolan Committee and the guidance produced by the Local Government Association as well as drawing on the County Council's own experience in these areas including the views of the Standards and Planning Regulatory Committees.
- 1.2 The aim of the Code is to give clear guidance to County Council members and officers on how they deal with planning matters. In doing so, it should also seek to ensure that the public have confidence that the decision making of the County Council is open and fair.
- 1.3 Planning matters are normally decided through the County Council's Planning Regulatory Committee. In addition, non-controversial planning matters are usually dealt with by officers under delegated powers. This Code applies whoever takes the decision.
- 1.4 This Code applies to appointed members of the Planning Regulatory Committee and substitutes drawn from the nominated panel. References in the Code to Committee members therefore include substitutes and even the full Council if they take the planning decision.
- 1.5 The Code applies to the full range of planning applications determined by the County Council and enforcement matters considered by the Planning Regulatory Committee and to the work of the Planning and Highways Delegations Committee.
- 1.6 Failure to follow recommendations contained in this code could be taken into account in investigations into allegations of maladministration and might also indicate a breach of the Members Code of Conduct

2. Declaration of Interests

- 2.1 The provisions of the Members Code of Conduct relating to interests are in Appendix 18 to the Council's Constitution.

- 2.2 All interests in a matter before the Planning Regulatory Committee must be disclosed to the meeting in accordance with the Members' Code of Conduct.
- 2.3 A member who has such disclosable pecuniary interest must not participate in a discussion or vote on the matter and must withdraw from the room and must not seek improperly to influence a decision on the matter.
- 2.4 A member who has an "Other Interest", that is to say, an interest that that member feels may be connected in some way to the matter under discussion but is not a disclosable pecuniary interest, may declare that interest and give thought to whether it would be appropriate to participate in the discussion and vote.

Although there is no legal obligation to declare the interest or withdraw from participation and voting the member may nevertheless feel that the public interest requires it – would a member of the public think that the interest is so significant that it may skew your view of the public interest?

- 2.5 There will be a standing item on the Agenda of all Committees to facilitate the declarations of interest.
- 2.6 To assist Councillors in this difficult area training will be provided in accordance with this code.

3. Predetermination

- 3.1 It is a well understood principle that judicial and quasi judicial decisions must not only be taken in a fair and unbiased way, but must be seen to be so. Although planning committees are not quasi judicial but administrative, the tendency of the courts in recent years has been to apply similar principles to planning committees.
- 3.2 Where applications are considered for County Council development or development on County Council Land those members of the Committee who have participated in the decision to apply for permission, whether on a Review Panel or in Cabinet, will declare that fact and not take part in the determination.
- 3.3 Where an external body, including a school, makes, initiates or is closely involved with an application for planning permission and members of the Committee (or their family members) serve on that body then the Committee member must declare an interest and not take part in the determination.

- 3.4.1 Where a member of the Committee serves on a Parish, Town or District Council which has commented on an application before the Committee, provided the member has not come to a final view on all the relevant matters before the Committee then they will declare an interest but may take part in the determination. If they have participated in a meeting on the application at Parish, Town or District level they should have it minuted at that meeting that they have not come to a final conclusion on the application.
- 3.4.2 Where however in the situation referred to in paragraph 3.4.1 such members have already decided in their own minds how the application should be decided then they must not take part in the determination.
- 3.4.3 In this context the Localism Act 2011 has stipulated that a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because –
- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
 - (b) the matter was relevant to the decision.

This does not mean that it is acceptable to have a “closed mind” – just that the law now says that your statements and actions do not necessarily constitute sufficient evidence to show that you do have such a closed mind.

As a decision taker it is always better to reserve or qualify any opinions on a forthcoming decision so as to show that you intend to listen to the evidence and representations and then make up your mind.

~~4. Gifts and Hospitality~~

- ~~4.1 The Members Code of Conduct requires any member receiving any gift or hospitality in their capacity as members over the value of £25 to provide within 28 days of its receipt written notification of the details to the monitoring officer.~~
- ~~4.2 The Members Code provides that a member should treat with extreme caution any offer or gift, favour or hospitality which is made to a member personally. In this respect the person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision. Gifts or hospitality includes any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the general public.~~
- ~~4.3 Similarly, officers during the course of carrying out their duties may be offered hospitality from people with an interest in a planning proposal. Wherever possible such offers should be declined politely. If the receipt of hospitality is unavoidable officers should ensure that it is of the minimal level and declare its receipt in accordance with arrangements made by the monitoring officer as soon as possible.~~

54. Development Proposals Submitted by Councillors and Officers

54.1 The County Council fully recognise that proposals by serving Councillors and officers and their close friends and relations can easily give rise to suspicion of impropriety. In order to ensure that they are handled in a way which gives no grounds for accusations of favouritism:

- a) the Head of Law will be informed of such proposals.
- b) such proposals will be reported to the Planning Regulatory Committee for decision and not dealt with by officers under delegated powers. As part of the report the Head of Law will confirm whether the proposal has been processed normally.

- c) serving Councillors who act as agents for people pursuing a planning matter or who submit planning proposals in their own right must play no part in the decision making process for that proposal.
- d) Persons who are employed as planning agents should not serve as members of the Committee.

54.2 An application on the agenda relating to development by a member is ~~a prejudicial~~ likely to be a disclosable pecuniary interest or "other interest" and the member ~~will be required~~ needs to consider whether he or she should to declare the interest and withdraw from the room during consideration of the matter. The Members Code of Conduct also provides that a councillor must not seek to improperly influence a decision about any matter, which is applicable to this situation.

54.3 However, this does not mean that a councillor should have any fewer rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of the committee meeting, but that there should be no suspicion of undue influence. Therefore where there is any substantial communication between a councillor applicant and planning officers on the application, apart from requests for information and progress reports, ~~the Council's Independent Person an independent member of the standards committee~~ should be present and a note taken of the meeting by an officer of the Managing Directors Department .

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65. County Council Development

Proposals for the County Council's own development and that of wholly owned companies will be treated in the same way as those of a private developer particularly in relation to officers advice which must be impartial.

76. Lobbying of and by Councillors

76.1 The County Council recognise that lobbying is a normal and perfectly proper part of the political process. The third report of the Nolan Committee noted that it was essential for local concerns to be properly ventilated and the best way to do this was through the local elected representative. However, lobbying can lead to the impartiality and integrity of a Councillor being called into question and in a number of cases lobbying has caused considerable public mistrust of Councils. As a result:-

- a) when being lobbied, Councillors, and members of the Planning Regulatory Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before it has been exposed to all the evidence and arguments.

- b) rather, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant Planning Officer in order that their views can be reported to the Planning Regulatory Committee.
- c) if Committee members do express an opinion then they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the Planning Regulatory Committee.
- d) members of the Committee other than those who are Councillors for the affected Division(s) - for which see paragraph (e) - should not openly declare which way they intend to vote in advance of the Committee meeting and of hearing the evidence and arguments on both sides.
- e) a Planning Regulatory Committee member who represents a Division affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the member decides to go public in support of a particular outcome - or even campaigns actively for it - it will be very difficult for that member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented. In those circumstances, because of the issue of predetermination the proper course of action would be for the member to declare an interest and not vote. The arrangements for public speaking include an opportunity for the Division Member to make representations.
- f) Similarly, a Planning Regulatory Committee member who decides to go public in support of a particular outcome for a planning matter which does not affect that member's Division should not speak or vote on that matter when it comes before the Committee.

76.2 In addition:

- a) Councillors should not put pressure on officers for a particular recommendation.
- b) Councillors should not mutually agree with one another on how to vote on particular planning matters.
- a) Councillors should pass any relevant written information which they receive to officers so that it can be reported or responded to.

76.3 The essential point is that decisions on planning applications should be taken in a fair and open manner, in the meeting and on the evidence presented to the meeting.

87. Group Meetings

A protocol for group meetings is attached as Annex 1 to this code

98. Pre-Application Discussions

98.1 The County Council recognise that discussions between a potential Applicant and the County Council prior to the submission of a planning application - and even after its submission - can be of considerable benefit to both parties. However, it would be easy for such discussions to be seen to become part of the lobbying process. To avoid this, the County Council have agreed that all pre-application discussions should take place within the following guidelines:

- a) It should always be made clear at the outset that the discussions will not bind the County Council to making a particular decision and that any views expressed are personal and provisional.
- b) Any advice should be consistent and based upon the Development Plan and material considerations. In addition, all officers taking part in such discussions should make it clear whether or not they are the decision maker.
- c) A written note should be made of all pre-application discussions. At least one officer should attend such meetings and a follow up letter is advisable at least when documentary material has been left with the County Council. A note should also be taken of pre-application telephone discussions. However information shared at pre-application discussions should only be placed on the planning if it is not considered to be confidential.
- d) Care must be taken to ensure that advice is, and is seen to be, impartial; otherwise a subsequent report could appear to be advocacy of a particular case.

98.2 Councillors and officers should avoid indicating the likely outcome of a decision. However, an officer whilst clearly making no commitment may on the basis of the structure and local plans and policy documents give information on the likely planning issues that would need to be addressed.

~~98~~.3 These guidelines apply equally to meetings called by third parties, such as Parish Councils, to discuss planning applications.

~~109~~. Officer Reports to Committee

~~109~~.1 Committee reports on planning proposals will comply with the following guidelines:

- a) Reports should be accurate and cover, amongst other things, the substance of objections and the views of consultees. (There will be an Agenda note to say where full copies of third party representations and views of consultees may be inspected).
- b) Relevant points will include a clear exposition of the development plan, the site or related history and any other material considerations.
- c) The report should have a clear recommendation; oral reporting (except to update a report or to report on late response from Committees) should be extremely rare and carefully minuted when it does occur.
- d) Reports should contain a technical appraisal which clearly justifies a recommendation.
- e) If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.

~~109~~.2 Applicants or third parties who wish to bring matters to the attention of the Committee should do so in good time so that they can be incorporated in the written Committee Report. Where new information arises without sufficient time for consideration officers will consider making a recommendation that the item be deferred.

~~104~~. Public Speaking at Planning Committees

The County Council has a scheme for public speaking which is annexed at Annex2.

121. Decisions Contrary to Officer Recommendation and/or The Development Plan

112.1 The Law requires that where the Development Plan [i.e. the approved Structure Plan and relevant Local Plan(s)] is relevant, decisions must be taken in accordance with it, unless material considerations indicate otherwise. The personal circumstances of an Applicant will very rarely be a relevant consideration.

112.2 It follows that if the Officer's Report recommends approval of a departure, the justification for this should be included in full within the Report.

112.3 In addition, where the Planning Regulatory Committee is minded to take a decision contrary to the Officer's recommendation, they should first give the Officer the opportunity to explain the implications of the contrary decision.

112.4 If the Committee then makes a decision contrary to the Officer's recommendation, the minutes should clearly state the reason(s) why, and a copy placed on the application file.

112.5 A Senior Legal Officer will always attend meetings of the Planning Regulatory Committee to ensure procedures are properly followed.

132. Committee Site Visits

132.1 Site Visits can cause delay and should therefore only be used where the expected benefit is substantial, e.g. where the visit will significantly assist the Committee's understanding of the issues or in controversial cases or where it will demonstrate to the public or the applicant that members have listened to their argument. The reason for the site visit should be minuted.

132.2 The purpose of a visit is to make a 'tour of inspection' by Members accompanied by an officer(s) who will point out any relevant issues and areas of interests/importance. It is not a meeting where any decisions will be made or a formal minute written. Decisions will be taken at the next appropriate formal meeting of the Planning Regulatory Committee. However, a note will be drafted, and placed on file of salient issues and points such as:

Date, Venue, Attendance, Duration, Locations Inspected, Issues Addressed

132.3 Invitations to the visit will be extended to other parties as appropriate, e.g.:

- The District Council
- Parish Council
- Local Member (where not a Member of the Committee)
- The Applicant
- Representatives of the objector(s)/supporters (where relevant)
- Appropriate Consultees

These invitations will be sent out by the Head of Democratic Services.

132.4 The visit will be chaired by the Chairperson (agreed or substitute) of the Planning Regulatory Committee. It will be at his/her discretion whether to allow those invited to the site visit to address the Members and this will be on the basis of speaking on specific issues previously raised in writing. The Chair will need to ensure that parties are each treated fairly and equitably and the appropriate standards of propriety are seen to be adhered to.

132.5 Members should avoid separate discussions with objectors or applicants during the visit and should not make unaccompanied site visits.

132.6 A substitute who attends the site visit should, if not substituting at the subsequent committee meeting when the application is determined, fully brief the committee member attending the committee meeting. The observations made by the substitute to the sitting member should be recorded in the minutes.

132.7 If a substitute who attended the site visit attends the subsequent committee with the sitting member (but is not voting) then the substitute should be given the opportunity to make comments to the meeting on the site visit.

143. Regular Review of Decisions

143.1 As part of the members training programme the Planning Regulatory Committee will from time to time visit the sites of implemented planning permissions to assess the quality of decisions made.

143.2 Training for new members of the Committee will also include visits to permitted sites.

145. Training

14.1 The Nolan Report states (paragraph 292) that the planning system is complex and it is essential that Councillors have adequate training. It recommends:

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R34 All members of an authority's planning committee should receive training in the planning system either before serving on the committee, or as soon as possible after their appointment to the committee.

154.2 Training for members of the Committee (and substitutes) will take the form of half day sessions and as much notice will be given as possible. The training programme will be the responsibility of the Director of Planning and Transportation in consultation with the Head of Law.

154.3 Training is regarded as essential and Members of the Committee and those on the Panel of Substitutes must receive training on the planning process before they are eligible to serve on the Committee.

165. Complaints and Record Keeping

165.1 If a member of the public or an applicant wishes to complain about the County Council's treatment of a planning application then in the first instance he should contact the Director of Environment, Transport and Development in County Council. The complaint will be investigated and an answer given. If the complainant is not satisfied with the answer, the complaint should be put in writing to the Director of Environment, Transport and Development, if possible using the County Council's customer complaint form. He will investigate the complaint and provide a written response. If this is still unsatisfactory, the complainant should write to the County Council's Managing Director who will carry out an internal review independent of the Planning and Transportation Department.

165.2 So that complaints can be fully investigated and, in any case, as a matter of general good practice, record keeping will be complete and accurate. Every planning application file should contain an accurate account of events throughout its life, with particular care being taken with regard to applications that are likely to be determined under Officers' delegated powers. Such decisions should be as well documented and recorded as those taken by members.

165.3 Decisions taken by officers under delegated powers will be exercised in an accountable way which will include placing on the file written justification for the exercise of the powers in a particular way. Periodic reports will be made to the Planning Regulatory Committee of cases dealt with under delegated powers.

Protocol for Group Meetings

1. Political Groups represented on the County Council may wish to hold pre-meetings prior to meetings of the Planning (Regulatory) Committee. In principle there is nothing wrong with this but it is important that Members understand their purpose and that there must be no grounds for those interested in planning applications, be they the applicants or objectors, to misunderstand what happens in them.
2. This protocol therefore affirms that the purpose of the Group Meetings is for Group Spokespersons to feed back to the members of their Group on the Committee (or their official substitutes for that meeting) on relevant issues arising from their own briefings with Officers. On this basis, the only persons who may be present at them are members of the Committee (or their official substitutes for that meeting) who will be attending the Committee Meeting which immediately follows. In particular, Local Members and those on the Panel of Substitutes who will not be substituting at that particular meeting will not attend except that substitutes may attend for training purposes.
3. There are existing procedures for Local Members to feed into the Committee any comments which they may have on an application. Provided these comments are received before the finalising of the Committee Report, normally 2 weeks before the meeting, they will be incorporated in it. In addition, there is an opportunity for Local Members to speak at the Committee Meeting itself. However, Local Members may occasionally wish to make their additional comments in writing and to deal with this it is proposed that a note be circulated to all Members of the Committee in time for any Group meetings incorporating any additional views from the Local Member together with details of any further written representations received from other interested parties. The Chairman or one of the Officers will also refer to these additional comments during the introduction of the report.

Public Speaking

Any body who wishes to object to or support a planning application which will be decided by the Committee may speak before decisions are made on planning applications.

Any person wishing to speak must give written notice to Democratic Services at least 48 hours before the Committee meets together with a short note of the points to be raised.

At the start of the meeting the Chair will ask members of the public to indicate if they wish to speak and if so, on what items and whether they are in support of or opposition to the application. Consideration can be given to changing the order of the agenda items if this is helpful in cases of exceptional public interest.

On each report where the public or local members wish to speak, the order will be -

1. Officer presentation of the report.
2. Objectors to the Application.
3. Statutory Consultees, District and Parish/Town Councils.
4. The Applicant or agent.
5. The local Member.

Each group will be allocated five minutes each and should if possible nominate one person to speak on their behalf. If this is not possible or there are members of each group both objecting and in support of the application the time allocated will be at the discretion of the Chairman. The Chairman may in complex cases extend the time allocated for speaking.

6. Members of the Committee may seek clarification after each speaker through the Chair and can seek guidance from officers. This is NOT a debating session.
7. Speakers will not be allowed to question other speakers, officers or members.

8. Officers will be given an opportunity to comment on any points raised if necessary.
9. Public speaking then ends and members proceed to debate the recommendation.
10. Members resolve on the recommendation.

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APPENDIX 18B

Gifts and Hospitality - A Code of Conduct for Councillors

1. Introduction

1.1 The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the County Council as acting in the public interest or as acting for the personal advantage or friends and for what personal benefit Councillors can get out of their position.

~~1.2 The members' Code of Conduct therefore provides that-~~

1.2 ~~"A member must within 28 days of receiving any gift or hospitality over the value of £25 in their capacity as a County Councillor, provide written notification to the County Council's Monitoring Officer of the existence and nature of that gift or hospitality."~~

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~~Failure to comply with this requirement is a breach of the Code reportable to the Standards Committee.~~

1.3 In addition, the Bribery Act 2010 creates offences relating to the act of bribing or being bribed.

1.4 Against this background, the purpose of this Code is to set out -

- (a) the principles which a Councillor should apply whenever he/she has to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when a Councillor considers that it would be proper to accept it;
- (c) a procedure for declaring any gift or hospitality which a Councillor receives and for accounting for any gift to the authority.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided by the County Council itself.

In addition the Code only applies to offers of gifts or hospitality made to a Councillor in their role as such. However, in this respect, there may be circumstances where a Councillor needs to be cautious as to the basis on which an offer is made.

2. General Principles

In deciding whether it is proper to accept any gift or hospitality, the following principles should be applied. Even if the gift or hospitality comes within one of the general consents set out below, it should not be accepted if to do so would be in breach of one or more of these principles:

(a) Never accept a gift or hospitality as an inducement or reward for anything done as a Councillor.

A Councillor must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

As already explained the acceptance of such an offer amounts to a criminal offence.

~~Further, the Council's Code of Conduct provides that~~ Councillors must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, ~~and that it~~ It is a breach of the Code improperly to confer any advantage or disadvantage on any person, including oneself.

(b) A gift or hospitality should only be accepted if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for Councillor's personal benefit.

~~As set out above, the Council's Code of Conduct provides that~~ Councillors must not improperly confer any advantage on anyone, including themselves. Acceptance as a Councillor of a gift or hospitality for their own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Council's Code of Conduct.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation.

The appearance of impropriety can be just as damaging to the authority and to a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. Councillors must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the authority favours any particular person, company or section of the community or as placing themselves under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, a Councillor must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:-

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
 - (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
 - (iii) funding decisions, when the authority is determining a grant application by any person or organisation.
- (d) Never accept a gift or hospitality if that places a Councillor under an improper obligation.**

It is important to recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If a Councillor accepts a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade the Councillor to determine an issue in their favour. Equally, if others note that a Councillor has been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

(e) Never solicit a gift or hospitality.

Councillors must never solicit or invite an offer of a gift or hospitality in connection with their position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Code. Councillors should also take care to avoid giving any indication that they might be open to such an improper offer.

3. Consent Regimes

(a) General consent provisions

For clarity, the authority has agreed that Councillors may accept gifts and hospitality in the following circumstances:-

- (i) civic hospitality provided by another public authority;
- (ii) modest refreshment in connection with any meeting in the ordinary course of their work, such as tea, coffee, soft drinks and biscuits;
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority;
- (iv) small gifts of low intrinsic value of £25 or less, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, care should be taken not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom a Councillor has done business on behalf of the Council if that person is met accidentally in a public house, café or bar. In such cases, reasonable efforts should be made to return the offer where this is practicable;
- (vi) a modest working lunch not exceeding £25 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £25 a head;
- (vii) modest souvenir gifts with a value of £25 or less from another public authority given on the occasion of a visit by or to the authority;
- (viii) hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit;

- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Chairman's Officer together with a written statement identifying the information set out in Paragraph 3(b) below. The Chairman's Officer will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that the Councillor has donated the gift to the [Chairman's Charity Fund], on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

(b) Special consent provisions

Councillors who wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 2, but is not within any of the general consents set out in Paragraph 3(a), may only do so if they have previously obtained specific consent in accordance with the following procedure:

A written application must be made to the Monitoring Officer, setting out:

- (i) the nature and an estimate of the market value of the gift or hospitality;
- (ii) who the invitation or offer has been made by or on behalf of;
- (iii) the connection which the Councillor has with the person or organisation making the offer or invitation, such as any work which the Councillor has undertaken for the authority in which they have been involved;
- (iv) any work, permission, concession or facility which the Councillor is aware that the person or organisation making the offer or invitation may seek from the authority;
- (v) any special circumstances which lead the Councillor to believe that acceptance of the gift or hospitality will not be improper.

The gift or hospitality must not be accepted until consent has been given by or on behalf of the Standards Committee.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve the Councillor of the obligation to register the receipt of gift or hospitality in accordance with Paragraph 4 below.

4. Reporting

Where a Councillor accepts any gift or hospitality which is estimated to have a market value or cost of provision of more than £25, the member must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 3(b) above. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

Even if the value of the gift or hospitality is £25 or less, if the recipient is concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, he/she may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

5. Gifts to the authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. A Councillor should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances developers' contributions under Section 106 Agreements. A Councillor who receives such an offer on behalf of the authority, must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). A Councillor who does not have delegated authority to accept the gift, should report the offer directly to the Monitoring Officer who has such delegated authority, together with a recommendation as to whether the gift should be accepted. The Monitoring Officer will then write back to the person or organisation making the offer, to record the

acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. A Councillor who has concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

6. Refused Offers

As a result of this protocol, there will be a number of circumstances when offers of gifts and hospitality must be refused. In addition, there will be circumstances where a member wishes to refuse an offer even though the protocol allows its acceptance. Whilst it is not considered necessary in every case that such offers are recorded there will be circumstances when it is in the public interest that they should be. These are:-

- (a) when the offer appears to be an inducement or reward for something expected from the Councillor (see paragraph 2(a))
- (b) offers from commercial organisations or private individuals over £25 in value.

In these circumstances, details should be passed to the Monitoring Officer within 28 days of the offer being made.

7. Definitions

- (a) "Councillor" includes outside appointments to Committees and Review Panels.
- (b) "Gift or hospitality" includes:
 - (i) the free gift of any goods or services;
 - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;
 - (iii) the opportunity to obtain any goods or services which are not available to the general public;
 - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (c) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
 - (i) the estimate of the cost to the person or organisation of providing the gift or consideration;
 - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which the Councillor would be required to make towards that price to the person or organisation providing or offering the gift or hospitality.

Public Protection Revision of the County Council Constitution

Report by the Director of Environment, Transport and Development

Summary

Public Protection delivers Statutory Trading Standards, Town & Country Planning and Resilience functions for the County Council. The changes proposed to the Constitution fall into four broad categories. Changes to reflect organisational changes either to this organisation service providers, for example appointment of public analysts, changes to resolve anomalies, such as the appointment of Counsel by the Director of Environment, Transport and Development, , changes to address current omissions, such as the inclusion of specific duties of the Council under the Habits Directive and finally redrafting to provide greater clarity,

Recommendation / Action Required

That the County Council Constitution is amended as detailed in Appendix 1 to this report. To include authorisation of the Director of Environment, Transport and Development to appoint, Public Analysts, Agricultural Analysts/Deputy Agricultural Analysts and legal Counsel. That the Terms of reference for the Planning (Regulatory) Committee are redrafted to provide greater clarity and the Powers delegated to the Director amended accordingly with specific reference to the Duties imposed upon the Authority by virtue of The Conservation of Habitats and Species Regulations 2010, as amended

1. Background

- 1.1. This paper makes a number of recommendations for changes to the current constitution as it relates to the tasks carried out by the Public Protection Service. Changes that relate to the function of County Council as the County Planning Authority are largely matters of house keeping. Such as changes to the Council policy framework to reflect the current Local Development scheme. It is also recommended that specific delegations are made to cover the role of the Authority as the Competent Authority under the Habitats Regulations. Revised wording is proposed to take advantage of the National Regulations but it is not proposed to changes to the current split between Planning applications that can be dealt with at an Officer level and that which must be determined by elected Members. Regarding Trading standards delegation is sought to allow officers to appoint Public Analysts and where necessary appoint Counsel to represent the Service in Court.

2. Trading Standards

- 2.1. The Food Safety Act 1990, Section 27(1), requires every food authority in England and Wales to appoint one or more persons to act as analysts for the purposes of the Act within the authority's area. The Agriculture Act 1970, Section 67(3)(b), requires the County Council (the enforcement authority) to appoint an agricultural analyst and, if required, one or more deputy agricultural analysts for the purposes of our law enforcement function.
- 2.2. Prior to 2008 public analyst services were provided to the County Council by Lincolne Sutton & Wood (LSW), a business based in Norwich, and the Public/(Deputy) Agricultural Analyst appointments were held by the two partners in the business and had been for a number of years. These pre-existing appointments were reconfirmed as a consequence of the contract between Norfolk County Council Trading Standards and Eurofins Laboratories Ltd (incorporating LSW), which took effect from 1 April 2008. Due to the retirement of the Public/Agricultural Analyst it was necessary to review this arrangement in July 2012.
- 2.3. Eurofins Laboratories Ltd operates a different business model to the traditional "one-stop shop" provided by LSW in that they conduct public analyst services at a number of laboratories across the country, specialising in different analyses. It was therefore agreed that Cabinet would appoint eight named individuals, based at each of the laboratories, as Public/(Deputy) Agricultural Analysts to oversee the analysis of food and animal feed samples submitted by the authority, to determine if the samples meet statutory requirements, to provide written reports on their findings and, if required, attend court as an expert witness to assist in the prosecution process for cases taken by the authority.
- 2.4. This arrangement provides much greater flexibility and resilience to both the Trading Standards Service and the company than was possible under the traditional arrangements but it also means that, with turnover in staff at Eurofins Laboratories Ltd, it is likely that appointments will need to be made on a more frequent basis than in the past. Indeed we received a request from the company to appoint a further Public/Deputy Agricultural Analyst later in 2012, to which we did not agree as it would have required another decision to be taken by Cabinet. We therefore recommend that, to enable the Trading Standards Service and the company to benefit fully from the greater flexibility on offer and to reduce the call on Cabinet time, the power to appoint Public/(Deputy) Agricultural Analysts should be delegated to the director of Environment, Transport and Development Assistant Director Public Protection (Appendix 1 MOD4,MOD5,MOD6)

3. **Planning Service**

- 3.1 Town and Country Planning functions are largely prescribed through legislation as non executive functions. Executive functions are limited to the role of the County Council as a Consultee to plans and schemes proposed by other organisations. Changes proposed are to the powers delegated to officers they do not seek to change the range and scope of actions undertaken by officers, they merely reflect changes that have been made since the last review to organisational structures and individual roles. (Appendix 1 MOD7,MOD8)

- 3.2 The Council Policy Framework as it relates to the Authority's' roles as a County Planning Authority currently refers to four policy documents, This needs to be amended to reflect the merger of the core Strategy⁷ and Development management policy documents previously adopted by Full Council. (Appendix 1 MOD1)
- 3.3 Maximising the number of decisions made under delegated powers is promoted as good practice and encouraged by Central Government. Effective schemes of delegation are seen as a key tool to delivering a fast and efficient planning service whilst at the same time allowing Councillors to focus on applications that by virtue of their complex or contentious nature require additional scrutiny. For this reason in 2011 we reviewed the scheme of delegation which at that time required all applications that had received at least one letter of objection to go before committee, to one where, subject to a number of minor caveats, only those which generated five or more objections on planning matters required consideration by Councillors. We are not proposing to change this situation, however we have recommended revisions to the wording, which we believe makes the delegation easier to understand and which also takes advantage of the legal drafting contained in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (As amended). It is also proposed to change the wording for the terms of reference to the Planning (Regulatory) Committee to reflect this change in approach. The existing and proposed wording are detailed in (Appendix 1 MOD2) to this report.
- 3.4 In addition to determining a planning application against the policies contained within the development plan and any other relevant material considerations, the Authority must also make a number of other decisions in relation applications lodged with it. In the first instance it must assess whether or not the application should be accompanied by an Environmental Statement, and if so, what the scope of the Environmental statement should be. These assessments take place either prior to, or upon receipt of the planning application. In accordance with guidance these decisions are delegated to Officers and it is not suggested that this position should be changed. During the processing of the application the Authority must also as the "Competent Authority" under The Conservation of Habitats and Species Regulations 2010, as amended, determine whether or not the proposal is likely to have a significant effect upon a European site (often referred to as a stage 1 assessment) and if considered likely, to carry out an "appropriate assessment" (stage 2 assessment) to determine whether or not there would be an adverse impact upon the integrity of the site. In addition to the technical assessment where an Appropriate Assessment is undertaken the authority is also required to decide whether to consult the general public and if so how.
- 3.5 In practice very few applications require an appropriate assessment. However , by making specific provisions for such decisions within the scheme of delegation for developments that do, Officers will be able to process these applications to a point where members of the Planning (Regulatory) Committee are able to determine applications on the planning merits of the case.

4 **Resource Implications**

4.1 **Finance** : There are additional resource implications envisaged by the proposed changes.

4.2 **Staff** : No Staffing implications

4.3 **Property** : No Property implications

4.4 **IT** : No IT implications

5. **Other Implications**

5.1 **Legal Implications** : There are no legal implications subject to a correctly amended Constitution.

5.2 **Human Rights** : There are no human rights implications

5.3 **Equality Impact Assessment (EqIA)** : No changes are proposed that will change the basis upon which decision are made and are not considered to impact upon equality issues.

5.4 **Health and Safety Implications** : There are no direct health and safety implications arising from the proposed changes.

5.5 **Environmental Implications** : No changes are proposed that will directly effect the environment.

5.6 **Any other implications** : Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

6. **Section 17 – Crime and Disorder Act**

6.1 There are no identified implications for crime and disorder

7. **Risk Implications/Assessment**

7.1 By endorsing those amendments that improve the drafting of the existing constitution and reflect changes to the structure.

7. **Alternative Options**

7.1 The Constitution is a matter for the Council to determine. No changes are required by law.

8. **Reason for Decision**

8.1 The changes identified will allow Officers to respond to the efficiently to address operational needs. Specifically with regard to the changes in personnel at our public and Agricultural Analyst providers, and the need to appoint Counsel. With regards to Town and Country Planning, the changes proposed provide for greater clarity address organisational changes and in the case of Habitats Regulation Assessment will ensure a speedier determination of proposals which require ans appropriate

assessment. (Appendix 1 MOD3)

9.0 Recommendation

It is recommended that the changes proposed in Appendix 1 to this report are made to the Council constitution.

Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

Name	Telephone Number	Email address
Nick Johnson	01603 228940	Nick.johnson@norfolk.gov.uk



If you need this report in large print, audio, Braille, alternative format or in a different language please contact 0344 800 8020 and ask for **Insert Officer Name** or textphone 0344 800 8011 and we will do our best to help.

Annex 3 Appendix 1

Schedule of Proposed changes to the Constitution for Public Protection

Reference No.	Current Wording	Proposed Wording	Reason for Change
MOD1. Article 4. Section 4.1.i Meaning of Policy Framework	<p>Development Plan Documents</p> <ul style="list-style-type: none"> • Minerals and Waste Core Strategy • Waste Allocations • Minerals Allocations • Minerals and Waste Development Control Policies 	<p>Development Plan Documents</p> <ul style="list-style-type: none"> • Core Strategy and Minerals and Waste Development Management Policies • Waste Site Allocations • Minerals Site Allocations 	<p>This is to reflect the changes previously adopted by Full Council to the Local development scheme. Namely the merger of the core strategy document with the development management document.</p>
MOD2. Appendix 02, Planning (Regulatory) Committee Terms of Reference	<p>To deal with the following matters</p> <ol style="list-style-type: none"> 1. Planning Applications for which the County Council are the determining Authority 2. Development Control 3. Mineral Workings 4. Preservation of trees 5. Listed Buildings 	<p>To exercise the Council's powers and duties in respect of Town and Country Planning and Development Control as specified in paragraphs 5-31 of Schedule 1A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (or any amendments to them) which are not the responsibility of the Council's Cabinet:</p> <p>To exercise the Council's powers and duties in respect of obtaining information as to interests in land under Section 330 of the Town and Country Planning Act 1990;</p> <p>To exercise the Council's powers and duties in respect of obtaining of particulars of persons interested in</p>	<p>To take advantage of the legal drafting contained within the relevant Statutory Instrument. The proposed change does not alter the remit of the committee which is namely to determine applications for planning permission which are lodged with the county council.</p>

Annex 3 Appendix 1

Schedule of Proposed changes to the Constitution for Public Protection

Reference No.	Current Wording	Proposed Wording	Reason for Change
		land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	
MOD3. Appendix 07. Non Executive Powers Delegated to the Director of Environment, Transport and Development	<p>To determine, where there is no objection from a statutory consultee, and less than 5 formal objections on material planning grounds, and where the application is not accompanied by an Environmental Impact Assessment Statement and where the Director in consultation with Chairman of the Planning (Regulatory) Committee has not consented to a written request by a member made within 21 days of the commencement of consultation, for the application to be determined by the Planning (Regulatory) Committee, in accordance with the County Councils approved policies:</p> <ul style="list-style-type: none"> • Applications for planning permission under regulation 3 of the Town and Country Planning General Regulations 1992 (including applications to develop land without complying with the conditions previously attached and applications for 	<p>To exercise all functions of the Council relating to Town and Country Planning and Development Control as specified in Schedule 1A paragraphs 5-7, 9-23 of the Regulations except for:</p> <p>(a) approval of planning applications and proposals in accordance with the Development Plans where objections are raised by Statutory Consultees or / and have more than four individual representations raising planning related objections;</p> <p>(b) approval of minerals and waste applications requiring Environmental Impact Assessments;</p> <p>(c) approval of applications for County Matter and County Council development where no more than four individual representations raising planning-related objections are received and the Chairman of the :Planning (Regulatory) Committee determines, in consultation with the Head of Environment, Transport and</p>	<p>To take advantage of the legal drafting contained within the relevant Statutory Instrument. The proposed change does not alter the scope of delegated powers in relation to planning applications.</p> <p>The current Scheme of Delegation makes no specific reference to the duties of the County Council as the competent Authority under the Conservation of Habitats and Species Regulations 2010. By making specific reference to these duties officers can properly process applications which require an appropriate assessment to the point that members of the Planning (Regulatory) Committee can determine them promptly.</p>

Annex 3 Appendix 1

Schedule of Proposed changes to the Constitution for Public Protection

Reference No.	Current Wording	Proposed Wording	Reason for Change
	<p>development previously carried out) other than those relating to the Department of Environment, Transport and Development.</p> <ul style="list-style-type: none"> • Applications for planning permission for County Matters (including applications to develop land without complying with the conditions previously attached and applications for development previously carried out). <p>To determine that planning applications be refused on the sole ground that insufficient information has been provided with the application for it to be determined.</p> <p>To exercise duties relating to the making of determinations of planning applications under Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10-13, 15-22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 and directions made under that Order.</p>	<p>Development, that the application should be determined by the Committee; and</p> <p>(d) approval of major departures from Development Plans arising from planning applications and proposals.</p> <p>To issue screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (as amended).</p> <p>To exercise the Council's powers and duties in respect of obtaining information as to interests in land under Section 330 of the Town and Country Planning Act 1990;</p> <p>To exercise the Council's powers and duties in respect of obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976</p> <p>To exercise the functions of the Council as the Competent Authority</p>	

Annex 3 Appendix 1

Schedule of Proposed changes to the Constitution for Public Protection

Reference No.	Current Wording	Proposed Wording	Reason for Change
	<p>To make determinations, give approvals and agree other matters relating to the exercise of permitted development rights.</p> <p>To impose detailed conditions on planning permissions granted by the County Council and determining the appropriate grounds of refusal where planning permission is refused.</p> <p>To determine whether an Environmental Assessment should be provided.</p> <p>6. To issue enforcement notices and to serve stop, breach of condition and planning contravention notices.</p> <p>7. To apply for an injunction restraining breaches of planning control.</p> <p>8. To enter into agreements regulating the development or use of land.</p> <p>9. To authorise entry onto land under Section 196 of the Town and Country Planning Act 1990.</p>	<p>under The Conservation of Habitats and Species Regulations 2010, as amended, with regards to any consent, permission or other authorisation for, a plan or project for which it is the relevant planning authority. Including</p> <ul style="list-style-type: none"> • Determine whether or not an appropriate assessment is required • Where it considered that an appropriate assessment is required <ul style="list-style-type: none"> ○ Decide whether it is appropriate to take the opinion of the public and if so the necessary steps to be taken, and ○ In the light of an appropriate assessment determine whether the Plan or Project will or will not adversely affect the integrity of the European site. 	

Annex 3 Appendix 1

Schedule of Proposed changes to the Constitution for Public Protection

Reference No.	Current Wording	Proposed Wording	Reason for Change
	No current specific reference	○	
MOD4. Appendix 6 Executive Powers delegated to the Director of Environment, Transport and Development	Not currently included. To be added as items (j) and (k) to the Officer's Scheme of Delegated Powers for the Director of Environment, Transport and Development.	To appoint individuals to act as Public Analysts in accordance with the Food Safety Act 1990, Section 27(i) To appoint Agricultural/Deputy Agricultural Analysts in accordance with the Agriculture Act 1970, Section 67,3(b)	To allow the service to respond quickly to changes in the availability of Analysts.
MOD5. Appendix 6 Section B – Specific Delegation under the Director of Environment, Transport and Development	No Current text	To appoint individuals to act as Public Analysts in accordance with the Food Safety Act 1990, Section 27(i) Assistant Director – Public Protection	To reflect proposed changes to the overall delegation identified as necessary in proposed amendment 4
MOD6. Appendix 6 Section B – Specific Delegation under the Director of Environment,	No Current text	To appoint Agricultural/Deputy Agricultural Analysts in accordance with the Agriculture Act 1970, Section 67,3(b) Assistant Director – Public Protection	To reflect proposed changes to the overall delegation identified as necessary in proposed amendment 4

Annex 3 Appendix 1

Schedule of Proposed changes to the Constitution for Public Protection

Reference No.	Current Wording	Proposed Wording	Reason for Change
Transport and Development			
MOD7.Appendix 6 Section B – Specific Delegation under the Director of Environment, Transport and Development	(a) approving minor or uncontroversial changes to the County Council’s planning policies and plans and minor uncontroversial comments on other organisations’ plans and policies. Assistant Minerals and Waste Planning Officer (Policy)	Principal Planner (Planning services)	Changes to reflect changes in the structure of planning services and job descriptions which have taken place since the last review of the Scheme of delegation.
MOD8.Appendix 6 Section B – Specific Delegation under the Director of Environment, Transport and Development	(b) responding to District Council consultations on planning applications	Principal Planner (Planning services)	Changes to reflect changes in the structure of planning services and job descriptions which have taken place since the last review of the Scheme of delegation.

Proposed amendment to the Norfolk County Council Constitution to reflect new statutory functions under the Flood and Water Management Act 2010.

Report by the Director of Environment, Transport and Development

Summary

This report recommends an amendment to the Norfolk County Council (NCC) Constitution to reflect the commencement of new statutory functions under the Flood and Water Management Act 2010.

Recommendation

It is recommended that an amendment is made (as set out in 2.1) to Appendix 6 of the Norfolk County Council Constitution to reflect the commencement of new functions under the Flood and Water Management Act 2010.

1. **Lead Local Flood Authority Functions**
- 1.1. Under the Flood and Water Management Act (FWMA) 2010 a number of statutory duties and functions now fall on the County Council in its role as a Lead Local Flood Authority. These functions are briefly outlined below;
- 1.2. **Duty to develop, maintain, apply and monitor a strategy for local flood risk management** under Sections 9 & 11, FWMA. - This strategy has to go through consultation with all Risk Management Authorities (RMAs) that cover Norfolk and that may be affected by the strategy as well as consultation with the wider public. The FWMA defines RMAs as the Environment Agency (EA), Lead Local Flood Authorities (LLFAs), District Councils, Water Companies, Highway Authorities and Internal Drainage Boards (IDBs). RMAs, except in the case of a water company, are required to act consistently with the Local Flood Risk Management Strategy (LFRMS).
- 1.3. **Power to request information and to delegate functions** under Section 13, FWMA – This allows NCC to request information in connection with risk management authorities flood risk management functions and to delegate flood risk management functions to other risk management authorities.
- 1.4. **Local authorities investigations** under Section 19, FWMA – On becoming aware of a flood in its area, NCC must, where necessary or appropriate, investigate the role and response of Risk Management Authorities (RMAs). Where a LLFA carries out an investigation it must publish the results of its investigation and notify any relevant RMA.
- 1.5. **LLFA duty to maintain a register** under Section 21, FWMA – NCC must establish and maintain a register of structures or features which, in the opinion of the authority, are likely to have a significant effect on a flood risk in its area and a record of information about each of those structures or features, including information about ownership and state of repair. This duty requires certain aspects of the

information to be made available for public viewing.

- 1.6. **Powers to designate structures or natural or man-made features of the environment** where their existence or location affects a flood risk under Schedule 1, FWMA. These functions include the following activities;
- Designating, provisionally designating or cancelling designation by giving notice under Sections 7, 8 and 9 of Schedule 1, FWMA.
 - Issuing consent by notice to alterations to a structure or feature designated under Section 6 of Schedule 1, FWMA.
 - Giving notice under Section 11 of Schedule 1, FWMA to direct the recipient to remedy a contravention.
 - Power to enter onto land in pursuance of activities under Schedule 1, FWMA. This is authorised under Section 13 of Schedule 1, FWMA.
- 1.7. Other functions such as Ordinary Watercourse regulation under the Land Drainage Act 1991 are already covered by an existing delegation set out in Appendix 6, Section B, Page 7 under the heading Director of Environment, Transport and Development. This delegation is point (f) and states “to exercise the Council’s functions relating to land drainage.”

2. **Proposed Amendment**

- 2.1. To reflect the need to carry out the functions outlined above an amendment is proposed to Appendix 6, Section B of the Norfolk County Council Constitution. This amendment would be to include a new entry (set out below) under the heading Director of Environment, Transport and Development on page 7:-
- (j) To exercise the Council’s functions as a Lead Local Flood Authority under the Flood and Water Management Act 2010
- 2.2. This amendment is sought to ensure that the Councils Constitution is accurate and that it reflects the need to fulfil Lead Local Flood Authority statutory duties and functions.

3. **Member Involvement**

- 3.1. Whilst we are seeking the appropriate delegation for functions under the Flood and Water Management Act 2010 it is worth noting that members are currently involved in the following processes and activities;
- **Approving and endorsing protocols** – Currently protocols have been approved by Cabinet and/or endorsed by the Environment, Transport and Development Overview and Scrutiny Panel (ETD OSP). Protocols have been produced to establish when County Council officers should exercise their powers and to set out the thresholds that are used trigger the need for involvement by the authority. These protocols cover;
 - Ordinary Watercourse Enforcement
 - Ordinary Watercourse Consenting
 - Flood Investigations

- **Scrutinising risk management authorities.** – Currently the scrutiny of risk management authorities as defined by the Localism Act 2011 is carried out by ETD OSP. Risk Management Authorities have to comply with a request by this committee.
- **Attendance at Regional Flood and Coastal Committees** – there are three County Council members on two (Eastern and Central) Regional Flood and Coastal Committees (RFCCs). These seats are in recognition of the levy that is raised from the County Council and that is based on council tax base. For Norfolk this is approximately £700,000. The RFCCs meet quarterly and have a role in endorsing the regional programme of flood mitigation schemes.
- **Adoption of studies and strategies.** Members have a role in scrutinising, endorsing and adopting both the Local Flood Risk Management Strategy as well as the evidence base that is developed to support it. This includes Surface Water Management Plans (SWMPs) that have been produced for the Norwich Urban Area, King’s Lynn and West Norfolk Settlements and Great Yarmouth Borough.

4. **Conclusion**

- 4.1. Amendments to Appendix 6 of the County Council’s Constitution are for the Leader of the Council to determine. The Constitution Advisory Group is asked to consider this report and recommend the proposed amendments (set out in 2.1) to the Leader.

5. **Resource Implications**

- 5.1. **Finance** : No direct financial implications.
- 5.2. **Staff** : There are no immediate staff implications.

6. **Other Implications**

- 6.1. **Legal Implications** : See Section 8.1
- 6.2. **Human Rights** : None at this stage
- 6.3. **Equality Impact Assessment (EqIA)** : None at this stage however it is worth noting that Equality Impact Assessments are carried out for Section 19, FWMA Flood Investigations.
- 6.4. **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

7. **Section 17 – Crime and Disorder Act**

- 7.1. There are no immediate implications.

8. **Risk Implications/Assessment**

- 8.1. The County Council is a Lead Local Flood Authority with many statutory duties as well as a range of permissive powers. Failure to include these provisions in the constitution would affect officers ability to comply with these duties or to exercise

appropriate powers and would potentially expose the authority to legal challenge.

9. **Alternative Options**

9.1. An alternative option would be to not include the suggested provision outlined in the recommendation. This would potentially expose the authority to legal challenge and has the potential to incur reputational harm.

10. **Reason for Decision**

10.1. The reasons for agreeing the recommendation below is that these are statutory duties and functions that require appropriate delegations to ensure the authority is legally compliant.

Recommendation

It is recommended that:

- (i) An amendment is made (as set out in 2.1) to Appendix 6 of the Norfolk County Council Constitution to reflect the commencement of new functions under the Flood and Water Management Act 2010.

Background Papers

The Flood and Water Management Act 2010

Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

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If you need this report in large print, audio, Braille, alternative format or in a different language please contact 0344 800 8020 and ask for Stephen Faulkner or textphone 0344 800 8011 and we will do our best to help.

Corporate Resources Overview and Scrutiny Panel
12 November 2013
Item No.

Report of the Constitution Advisory Group (CAG)
Part 2 – Committee Form of Governance

Report of the Chairman of the Advisory Group

Summary/Action Required

This report sets out the work undertaken by CAG and asks the Panel to consider CAG's conclusions and recommendations.

1. Background

1.1 On 24 May 2013, Council agreed the following motion:

- “In principle to change the Council's form of governance in accordance with Section 9K and 9KC of the Local Government Act 2000 to a committee form of governance as provided in Section 9B (1) (b) of that Act and
- In furtherance of that objective, to instruct the Corporate Resources Overview and Scrutiny Panel (CROSP) to constitute and make appointments to the Constitution Advisory Group (CAG) and to further instruct CROSP to receive CAG's deliberations and prepare an urgent report to the Council concerning a change to the committee system of governance.”

1.2 On 13 June 2013, Corporate Resources OSP received a report which set out the decision of the Council. The Panel resolved:

- That the Constitution Advisory Group be made up of 6 members - 3 Conservative (Cllrs Jordan, Proctor and Thomas), 1 UKIP (Cllr Parkinson-Hare), 1 Labour (Cllr Walker), 1 Liberal Democrat (Cllr Strong).
- That a quorum of 3 would apply for meetings.
- That named substitutes would be appointed to the Group.
- That the Chairman of the Corporate Resources Overview and Scrutiny Panel would Chair the Constitution Advisory Group.

2. Governance Options

In law, the only governance arrangements the Council could adopt are:

a. Executive Arrangements

(Strong Leader and Cabinet or Elected Mayor and Cabinet). The hybrid model (or the Kent Model as it is sometimes known) comes under this category, as it is still an executive arrangement.

The main features of this system are as follows:

- A local authority which has adopted executive arrangements must ensure that its executive takes the form specified in section 9C (2) of the Local Government Act 2000. An executive is responsible for certain functions of a local authority and executive arrangements require a division between the making of a decision and the scrutiny of that decision.
- An executive can be either a:

Mayor and cabinet executive (an elected mayor of the authority and two or more councillors of a local authority appointed by the elected mayor).

or

A leader and cabinet executive - a councillor of the authority (executive leader) elected as leader of the executive by full council and two or more councillors of the authority appointed by the executive leader.

- A local authority executive can only have up to a maximum of ten members unless an alternative number has been specified by the Secretary of State in regulations.
- An executive does not have to be politically balanced – it can be a single party body if the Leader so chooses.
- The Executive is responsible for most day to day management of the authority's functions. It may take those decisions collectively as a cabinet, by delegating to a cabinet committee, cabinet member or to an officer.
- The Full Council sets the budget and major policy framework. Some functions of a planning and licensing nature are also non-executive.
- A Scrutiny Committee must be established and non executive councillors appointed to it. Its role is to hold the executive to account. It can under certain circumstances delay the implementation of executive decisions but it cannot overturn them.

b. A Committee System

The main features of this system are as follows:

- There is no “executive” set up to carry out day to day management of the authority.
- The Full Council sets up committees to deal with different functions and delegates decision making to these committees and / or to officers.
- There is therefore no split between executive and non-executive functions – all functions are council functions.
- Under the committee system no delegations to individual councillors are possible.
- Each committee and sub-committee must be politically balanced unless the Council decides “nem con” otherwise.
- There is no legal requirement to set up a scrutiny committee although the Council may if it wishes set up a committee with scrutiny type or similar functions.

3. The Review Process So Far

- 3.1 CROSP received a progress report from CAG at its meeting on 15 October 2013. At that meeting, CROSP asked CAG to continue with its deliberations and to work towards being able to propose a Committee system of governance to CROSP at its November meeting.
- 3.2 CROSP also recognised that CAG’s work on an improved Cabinet system would be a valuable proposition if the Council decides not to resolve to move to a Committee style of governance when it considers the issue at its meeting on 25 November 2013.
- 3.3 As previously reported, if the Council passes a formal resolution to move to a Committee form of governance, then there is a window of opportunity that opens at the next AGM. Therefore, any formal resolution would need to be to that effect. In order to meet the 2014 AGM timetable, the following process was agreed at the first meeting of CAG:-

First Meeting of CAG	28 August 2013
Second meeting of CAG	11 September
Third Meeting of CAG	27 September
Interim Report to Corporate Resources OSP	15 October 2013
Fourth meeting of CAG	22 October
Fifth Meeting of CAG	31 October
Full report to CROSP	12 November 2013
Report from CROSP to Council	25 November 2013

- 3.4 If Council on 25 November 2013 resolves to move to a committee system of Governance, then detailed work will need to be undertaken on changes to the Constitution, which will be brought to Council for consideration in March 2014, with a view to any new form of governance coming into effect from the AGM in May 2014.
- 3.5 In passing a resolution to move to a committee system of governance, it is open to full Council to specify in the resolution that the change will take place at a later annual meeting than the next scheduled one. If it does not specify this, the change must be at the next annual meeting.

4. Progress since the last CROSP meeting

4.1 CAG has met on two occasions since the last meeting of CROSP and has focussed on trying to identify principles that should apply to any Committee system that is introduced at Norfolk County Council, recognising that much more detailed work will be required should the full Council take a decision on 25 November to move to such a system.

4.2 In carrying out its work CAG has focussed on a range of key areas, as follows:-

- Type of Committees – Thematic or Programme/Service Based
- Whether there should be a cross-cutting Policy and Resources Committee
- Role of Full Council and balance of responsibilities between Council and Committees
- Frequency of Meetings
- Size of Committees
- Whether there should be a scrutiny function
- Contested Business Arrangements
- Urgent Business Arrangements
- Area Based Decision Making
- Arrangements for Delegations to Officers
- Costs

4.3 These are now addressed in turn.

Type of Committees

4.4 Committees will comprise of councillors, reflecting the political balance of the Council (Widdecombed) unless the Council decided “nem con” (i.e. with no member voting against) that it should not do so. The decision we take on a committee system will need to reflect the needs of the approach the Council wishes to take to governance, i.e the form (structure, processes etc) will need to reflect the function.

4.5 In terms of configuring the structure, there are a number of options:

- Thematic – i.e. Committee that cut across services
- Programme/Service based, i.e. aligned to directorates or covering specific areas of activity, such as Children’s Services
- Any other model that may be appropriate for local circumstances, e.g to reflect the Council’s strategic ambitions.

4.6 One option would be to align the committees to the current structure, at least initially. This would give a decision-making committee system that might look like:

Childrens’ Services
 Community Services (including Adult Social Services)
 Fire and Rescue
 Environment, Planning and Transportation, including Economic Development
 Corporate Resources

4.7 Another option would be to configure the structure on a thematic basis, so that the committees could address cross-cutting issues such as “People Services”, “Place”, “The Environment”, “Norfolk’s Economy”. This could allow greater join up and may also be more facilitative of partnership working. It might also address the danger of silos developing. There are a number of ways of structuring such a system and it could be aligned to the priorities set out in “Putting People First” or any other cross-cutting strategic objectives. CAG noted that once a committee system of governance was in place, the precise structure of the system could be changed by the Council at any time in the future.

4.8 CAG has looked carefully at the options and has consistently agreed that it would prefer to see a programme/service based structure of committees. At its final meeting, CAG received and considered a detailed proposal that the structure should consist of 10 service based committees, these being as follows:-

Adult Social Services
 Children’s Services
 Corporate Resources
 Cultural Services
 Development of the Economy
 Finance
 Fire and Protection
 Schools
 Transport
 Waste and Environment

4.9 The principal rationale for the suggested structure was a perceived benefit of specialisation and a better distribution of workload, which could be achieved by avoiding committees with very wide remits. CAG generally supported the proposal although there was some discussion as to whether it would be better if Finance and Corporate Resources

were combined in a single committee rather than be separate. The possible combining of Children's Services and Schools was also discussed but it was generally felt that given the major challenges currently facing these areas, it would be better to keep them separate and thereby ensure greater focus on each.

CAG agreed that it wished to put forward this proposal, as set out in paragraph 4.8 above, as a recommendation to CROSP.

Whether there should be a cross-cutting committee (a Policy and Resources Committee)

4.10 In addition to whatever structure is decided upon for the main committees, there is an option to have a Policy and Resources Committee sitting above them. CAG has looked at the structure at Nottinghamshire County Council, which has already moved to a committee structure. It has a small number of statutory policies and plans (6) reserved to the full Council and a Policy Committee with responsibility for taking decisions on the following issues:-

- Policy development and approval except on matters reserved for the full Council
- Review of performance
- Review of day to day operational matters taken by officers
- Approving staffing structures

It is also responsible for deciding specified issues that cut across service committees. Where it is not clear which is the most appropriate committee to consider an issue, the report is discussed and determined by the Policy Committee. Therefore the Policy Committee takes most policy decisions and considers cross-cutting issues.

4.11 CAG has considered whether there is a need for a cross-cutting Policy and Resources Committee and has concluded that provided the balance of responsibilities between full Council and the service committees is set appropriately, such a committee is not necessary. **CAG therefore recommends that a new committee structure does not include a policy and Resources Committee.**

Role of Full Council and balance of responsibilities between Council and Committees

4.12 Having concluded that there should not be a Policy and Resources Committee, CAG has considered the role of the full Council and has looked at options for the balance of responsibilities between Council and its service committees.

4.13 One option is to have a "Strong Council", which in addition to the functions reserved to it by statute, would retain responsibility for approving a Policy Framework, as currently happens. The current

Framework includes 33 plans and strategies covering all service areas. In the absence of a Policy and Resources Committee, the Council would also be responsible for cross-cutting functions. The service committees would be responsible for taking day to day decisions for the area for which they are responsible, other than any decisions delegated to officers.

- 4.14 Another option is to have “Strong Committees”. In this system, the service committees would approve service related policies and strategies, including financial decisions, as well as taking day to day decisions. The full Council would only be responsible for its statutory functions.
- 4.15 CAG’s preference is for a “Strong Council” model, which it considers will provide for a greater number of members to be involved in making key policy and strategic decisions. The full Council would be responsible for:-
- Deciding matters reserved to Council by statute, plus the Policy Framework and cross-cutting matters
 - Budget-setting
 - Appointing committees
 - Setting delegations to committees and officers
- 4.16 The service committees’ responsibility would be to take day to day decisions, other than those delegated to officers. **CAG recommends that the structure of a committee system should reflect the “Strong Council” model.**

Frequency of Meetings

- 4.17 CAG has considered what frequency of meetings a committee system would require. There has been an acceptance that whilst any new system of governance should allow improved member engagement, it must also seek to retain as far as possible the efficient decision-making which is a feature of the Cabinet system.
- 4.18 Currently, the Cabinet meets and takes its decisions on a monthly basis. There is of course the possibility that its decisions are called in for scrutiny but for the most part, the vast majority of Cabinet’s decisions can be implemented very soon after they are made. If that benefit is to be retained in a new system in which service committees take the decisions currently taken by Cabinet, CAG considers that there would be a need for each Committee to have scheduled monthly meetings. It may be the case that some of the meetings can be cancelled if on occasions there is no business that requires decisions to be taken but CAG considers that monthly meetings must be scheduled, including for the full Council.

- 4.19 The overall effect on the number of meetings of Council and the service committees, if all meetings went ahead, is that there would be 11 bodies meeting monthly, making 132 meetings in total. This compares to the current position whereby the equivalent bodies – Cabinet, Cabinet Scrutiny, Overview and Scrutiny Panels and full Council are scheduled to have 62 meetings per annum. If the new committees and the full Council met only every other month, the number of meetings would be 66, a slight increase on the current system.
- 4.20 **CAG recommends that in a committee system of governance, each service committee and the full Council should have meetings scheduled monthly in order that the desired speed of decision making can be achieved.**

Size of Committees

- 4.21 CAG has discussed the relative merits of different sized committees. A suggestion was made that a range of between 8 to 10 members was a reasonable size for a decision-making committee to operate speedily and effectively. However, it was also noted that with the current political balance situation on the Council, some political groups would have very little representation on committees of that size and that it is only when larger committees are in place, as exists currently, that all the political groups have what they would regard as reasonable representation.
- 4.22 Another view was that whilst there is a need to strike a balance between being politically fair and being functional, any system of governance must be designed principally so that the Council can function effectively and not to reflect the interests of particular individuals and political groups that happen to make up the Council at a particular time.
- 4.23 **On balance, CAG did not wish to be prescriptive about the size of committees and recommends that this is a matter best left to the group charged with drawing up a new Constitution.**
- 4.24 However, CAG agreed that it would be helpful to draw up a schedule showing the political balance arrangements that would be in place for the 10 committees, for a range of committee sizes and based upon the current political group numbers. This information has been prepared for committees of 10, 13 and 17 and is set out in Appendix 1 (attached). The figures are indicative only for the 10 service committees. The actual figures would depend upon what other, non-service committees are established and their size and what effect that would have on the overall allocations.

Whether or not there should be a scrutiny function

- 4.25 CAG has considered overview and scrutiny and whether there should be a role for it in a committee system of governance. The purpose of scrutiny in the existing system of governance is to hold to account the Executive, which has a high level of autonomy in terms of its decision-making role. The Cabinet is responsible for the overwhelming majority of decision-making and as has been clear in recent years, the full Council does not have the power to overrule the Cabinet. Consequently, there is a need to have a strong system to hold the Cabinet to account and that is the role carried out principally by the Cabinet Scrutiny Committee and also by the service based overview and scrutiny panels.
- 4.26 In a committee system, the committees will have decision-making powers, but derive those powers from the full Council, which will have the authority to take those powers back if it considers they are being misused. Nevertheless, there have been views expressed within CAG that there ought to be some mechanism whereby committees can be challenged and held to account for their decisions. **On balance, CAG has concluded that in a committee system, apart from those areas where the Council will still be required by statute to arrange for scrutiny to be carried out, there should not be a general scrutiny function and recommends accordingly.** The areas where scrutiny will still need to be carried out are:-

Health Scrutiny
Flood Risk Management
Community Safety Partnership
Police and Crime Panel

and the Council will have to ensure that arrangements are in place to carry out these functions.

- 4.27 However, in reaching this conclusion, CAG considers that there needs to be in place a mechanism for decisions to be contested. This is covered in the next section of this report.

Contested Business

- 4.28 CAG considers that a committee system of governance should have some facility and process for committee decisions to be contested and referred to the full Council for determination. In reaching this conclusion, CAG is aware of the risk that such a facility could be abused and that decisions might be contested and delayed for inappropriate reasons. It is felt however, that it should be possible to design a process that sets out very clear and reasonable criteria by which committee decisions can be contested and that the criteria could ensure that no abuse of the system is possible. The criteria might also limit the number of occasions on which decisions can be contested.

- 4.29 CAG does not wish to prescribe how such a system might be framed and considers that this is a task for the group which will be charged with preparing a new Constitution. **CAG does however wish to recommend that one of the principles on which a committee system should be based is that it includes a facility for decisions made by service committees to be contested and reviewed by Council**

Urgent Business

- 4.30 CAG recognises that whatever system of governance is in place, there will be times when, for reasons of urgency, there will need to be a process for taking account of the need for a decision to be taken quickly. Under the current system there is a clear provision for this. The Leader of the Council may exercise all the powers of the Cabinet in a case of urgency. In addition, the Managing Director may decide that a decision to be taken by Cabinet is unable to be called in for reasons of urgency.
- 4.31 CAG accepts that in a committee system, there will be times when it is not possible to build wider member involvement into a decision, simply because of the need for urgency. CAG has discussed various options, including having a small urgent business sub-committee for each service committee and having a single urgent business committee appointed by full Council. CAG does not however wish to seek to prescribe what the urgency arrangement should be and that this is best left to the group which will be responsible for drawing up a new constitution.
- 4.32 **CAG recommends that any committee system of governance should include provision for urgent decisions to be taken should the need arise in between scheduled service committee meetings.**

Area Based Decision Making

- 4.33 Although not having them now, this Council has in the past had a system of area based committees. There were at one time 7 committees, each covering a district council area. The committees comprised the county councillors whose divisions were in the relevant district council area and although they had no decision-making powers, they provided an opportunity to debate local issues with local stakeholders.
- 4.34 The ones that were based in the more rural areas of the county did not last very long, although the ones for Norwich and Great Yarmouth were more successful and did continue for longer, until they themselves were abolished several years ago. Whilst the area committees in Norfolk had no decision-making powers, under a committee system, it

would be possible for area committees to have powers delegated to them.

- 4.35 CAG has considered whether a new committee system should include provision for Area Committees and has concluded that this is a feature that should not be introduced initially, but which might be subject to review once the new system has had time to bed in. **CAG therefore recommends that no area committees be established at this stage.**

Arrangements for Delegations to Officers

- 4.36 Any system of governance must recognise that it will not be possible for all decisions to be taken by committees. It must also be noted that in a committee system, unlike the current system, it is not legally possible to delegate decisions to individual members of the Council. Consequently, any system needs to set the level of delegation to officers at an appropriate level. Too much delegation to officers could negate the reason to implement a committee system whereas too little risks agendas having to be packed with operational matters.
- 4.37 In the present system, there is little delegation to individual members. Consequently, CAG considers that the most appropriate level of delegation of powers to officers, at least for the initial stage of a new committee system, would be the present delegation arrangements, as set out in the Constitution. This is something that Council might wish to review in due course.
- 4.38 **CAG recommends that in a new committee system of governance, the existing scheme of delegations to officers should be retained.**

Costs

- 4.39 Whether or not and the extent to which a committee system will lead to additional costs mainly depends upon the effect on the number of meetings that will take place.

The figures detailed below reflect the approximate cost of servicing a single NCC Cabinet meeting at present:

Preparation of an agenda pdf for publishing (average two hours)
including uploading of documents to website £30

Committee Officer support @£15 per hour x 5 days - £550

(Reminders of forthcoming deadlines and management of Cabinet Business Workplan, draft agenda collation, preparation and despatch, management of member and public questions deadline and collation of replies to questions, dealing with meeting arrangements e.g. room set

up, speakers, petitioners, Local Members, attending Chairman's briefing, attendance at meeting, writing minutes and co-ordinating follow up action including writing reports to full Council)

IT Support for each meeting (electronic display of agendas)
@ £12 per hour x 3 hours including preparation - £36

Members Travel Costs £126
Based on an average of a 35 mile round trip and a Cabinet of 8 members. Would obviously be more for committees with more than 8 members

[Service involvement £3,430
Report writing – preparing, drafting, consulting
[Senior Officer attendance at briefings and meetings

Total Approximate Cost **£4,172**

- 4.40 Apart from Member travel, the above costs all relate to officer time. As already indicated in paragraph 4.19, the overall effect of the proposed structure on the number of meetings of full Council and the service committees, if all meetings went ahead, is that there would be 11 bodies meeting monthly, making 132 meetings in total. This compares to the current position whereby the equivalent bodies – Cabinet, Cabinet Scrutiny Committee, Overview and Scrutiny Panels and full Council are scheduled to have 62 meetings per annum. If the new committees and the full Council met only every other month, the number of meetings would be 66, a slight increase on the current system.
- 4.41 Based on the above figures, at a cost of £4,172 per meeting, an additional 70 meetings (assuming monthly meetings) would cost approximately an additional £292,000. If meetings were only every other month (additional 4 meetings) , the additional cost would be £16,688. These figures make an assumption that the cost of a committee meeting in a new system would equate to the cost of a Cabinet meeting in the existing system. It is possible that committee meetings would be less demanding upon officer time than Cabinet meetings but this is something that will only be known when the system is in operation. Whilst it might be envisaged that an individual committee meeting will require less decision-making than a Cabinet meeting, it is likely that committee meetings will involve more debate and experience shows that committees will look to include on their agenda, items that do not necessarily involve taking decisions but which they nevertheless consider need to be discussed in a public forum. It is likely however that the extent of senior officer attendance at

Committee meetings would be significantly less than for Cabinet, which is always attended by the Acting Managing Director and usually by most of the Chief Officer Group.

- 4.42 An additional consideration is that if there is a significant increase in the number of meetings, such as the additional 70 referred to in paragraph 4.41 above, there would need to be additional resource in the committee support section. It would not be possible for that section to absorb such an increase if those meetings are to be adequately serviced. It is estimated that an additional 2 committee officer posts would be needed at an approximate cost of £60,000. Some (but not all) of the additional support could be delivered by reallocating that element of the present Scrutiny function that members have concluded would no longer be necessary under a committee system. However, it should be noted that a scrutiny resource would still be needed in respect of the statutory scrutiny responsibilities that the Council would retain in a committee system (4.26 refers).
- 4.43 Finally, additional meetings would result in additional travel costs for members attending those meetings. Based on an average 35 mile round trip, the cost per member would be £15.75 per attendance. The overall additional cost would depend upon how many extra meetings and the size of the committees. If there were an additional 70 meetings (based on each committee and full Council meeting monthly) the additional cost would be approximately £11,000 if the committees had 10 members; £14,000 for committees with 13 members and £19,000 for committees of 17. If committees met every other month, there would be an additional 4 meetings and the respective additional costs would be £600, £800 and £1,071.

5. Other Issues

Sub-Committees

- 5.1 CAG considered whether in addition to appointing committees, the full Council should also be responsible for appointing and setting the terms of reference for sub-committees. CAG concluded that decisions regarding the establishment of sub-committees were best left to the service committee themselves, having regard to their own circumstances.

Training

- 5.2 CAG is keen to emphasise that a move to a new system of governance will involve a major cultural shift for many members and that effective training in the new systems and procedures will be a key element in helping to achieve as smooth as possible a transition. It has been suggested that such training should be regarded as compulsory for all members but CAG has recognised that there is no authority to make

training compulsory and that it will be important that political group leaders try to lead by example and encouragement.

Remuneration

- 5.3 CAG has briefly discussed the issue of remuneration arrangements under a committee system. It has been advised that if a new system is introduced, the Council's Independent Remuneration Panel will be convened and will review the Special Responsibility Allowance arrangements. The Panel will review the new political structure and decide which posts within that structure should be eligible for a special responsibility allowance. Where it considers that an SRA should be paid for a post, it will arrive at an appropriate level of remuneration. The Panel will then make recommendations to the full Council, which will be responsible for taking a decision on what posts will attract SRAs and on the level of those SRAs.

Other Parts of the Structure

- 5.4 CAG wished to draw CROSP's attention to the other parts of the structure that would remain under a new committee system. This was so that members are aware of the complete range of commitments that many members would have in terms of serving on committees and outside bodies.
- 5.5 Firstly, there are the following public committees that would need to continue in some form:-
- Health Overview and Scrutiny Committee (unless function carried out by one of the service committees)
 - Health and Wellbeing Board
 - Planning (Regulatory) Committee
 - Norfolk Police and Crime Panel
 - General Purposes Committee
 - Community Safety Partnership Scrutiny
 - Audit Committee
 - Standards Committee
 - Personnel Committee
 - Joint Museums Committee

- Records Committee
- Pensions Committee
- Norwich Highways Agency Joint Committee
- Norfolk Parking Partnership
- Emergency Committee
- Eastern Inshore Fisheries Conservation Authority
- Eastern Shires Purchasing Organisation

5.6 Next there are a wide range of internal committees, panels, boards, working groups as follows:-

1. Adoption Panels (1 member for each of the 2 Adoption Panels)

2. Area Museums Committees:

Breckland – 5

Great Yarmouth – 4

King's Lynn & West Norfolk – 5

North Norfolk – 5

Norwich – 6

3. Capital Priorities Group - 5

4. Community Construction Fund Advisory Panel – 8

5. Community Engagement Steering Group – 3

6. Corporate Parenting Strategic Board – 4

7. Employment Appeals Panel – 10

When the Panel meets for any particular case, it has a membership of 3, drawn from the Panel of 10.

8. ESCO (Energy Saving Company) Board/Investment Panel – 1 Cabinet Member

9. Fire Joint Consultative Forum – 7

10. Independence Matters Enterprise Development Board - 2

11. Joint Casualty Reduction Partnership – 2

12. Joint Consultative & Negotiating Committee – 7
13. LEA Appointments Group – 5
14. Member Champions
 - Armed Forces (1)
 - Carers (1)
 - Child Poverty (1)
 - Historic Environment (1)
 - Learning Difficulties (1)
 - Mental Health (1)
 - Older People (1)
 - Physical Disability & Sensory Impairment (1)
 - Rail (1)
 - Restorative Approach (1)

Member Development Champions – 1 from each Group
15. Member Support & Development Advisory Group – 9
16. Norfolk Foster Panels – 1 for each Panel
 - Central Norfolk
 - West
 - East
17. Norfolk Local Access Forum – 3
18. Norfolk Minerals and Waste Local Plan Member Reference Group – 10
19. Norfolk Museums & Archaeological Service Board – 1
20. Norfolk Parking Partnership Joint Committee – 1 plus a named substitute
21. Norse Commercial Services – 2 Directors plus Shareholders' representative (Observer).
22. Norse Group – 2 Directors plus Shareholders' representative (Observer).
23. NORSE Member/Officer Shareholder Committee – 6
24. NPS Property Consultants Ltd – 2 Directors plus Shareholders' representative (Observer).
25. Parking and Traffic Regulation Outside London Joint Committee – (1)
26. Property Reference Panel – 6

27. RAF Coltishall Working Group
Cabinet Member
Local Members for the Divisions of Aylsham, Hoveton & Stalham,
South Smallburgh, Wroxham
 28. School Admissions Forum – 6
 29. Sponsor Group for Establishing a Personal & Community Support
Services Social Enterprise – 2
 30. Strategic Equality Group – 6
 31. Teachers Joint Consultative Committee – 11
 32. Tenants' Advisory Board (East) – 2
- 5.7 Finally, the Council appoints representatives to a wide range of outside
bodies, as set out in Appendix 2 (attached)

Ongoing Arrangements

- 5.8 CAG wished to make it clear that if the Council does move to a new
committee system of governance in May 2014, the precise structure of
that system can still be changed by the Council at any time in the
future. It will not however be possible to revert to a Cabinet system until
after 5 years of the committee system being in operation.

6. Alternative Options

- 6.1 Whilst not all members of CAG agreed that it should be considering
alternative options to a committee system, CAG concluded that it would
be helpful to all Members to provide information on whether an
enhanced Cabinet system might address some of the concerns which
had led to the call for a change of system, firstly that strategic decisions
should be taken where possible at Council and secondly, greater
member involvement in decision making.
- 6.2 CAG looked at possible ways of enhancing the role of Council by
enabling it to have a debate before certain key strategic decisions are
taken by the Cabinet and making a recommendation to Cabinet as to
the decision to be taken (similar to what has occurred recently
regarding The Willows). This would require clear processes and
definitions. Firstly, to develop a definition of "strategic issues"; secondly
to be clear as to how a pre-Cabinet Council debate could be triggered
and thirdly, who would have the power to trigger such a debate.

- 6.3 These would need to be worked up in the context of not slowing down decisions. Using a Cabinet business plan as a document from which to identify strategic issues would allow potential Council debate issue to be identified. However, issues would have to be identified much further in advance than happens with the current notice of key decisions (28 days) in order to allow the full process to be followed through. Once relevant issues have been identified, the process could be a long one, but could possibly be slightly reduced by scheduling meetings of the Council just for the purpose of pre-Cabinet debates and then cancelling them if there are no issues to consider. It should be recognised that although such a system would provide for increased member involvement in the decision-making process, the final decisions would still be reserved to the Cabinet.
- 6.4 CAG has also looked at possible greater member involvement through the introduction of Cabinet Policy Advisory Committees. These have been established at Kent County Council with its hybrid model and one of the roles of these committees is to consider issues before they are taken to Cabinet or to a Cabinet Member for decision. They are only advisory and consequently would not overcome the issue of member involvement in decision-taking but they could in theory be developed so that there is a strong presumption that the Cabinet/Cabinet Member would accept the advice of a Policy Advisory Committee. However, in a Cabinet system, there could be no legal undertaking by the Cabinet/Cabinet Members to accept the advice given to them and so this again may fall short in terms of addressing the concerns of those who wish to move away from the Cabinet system.
- 6.5 CAG does not wish to recommend or advocate any particular form of enhanced Cabinet system. It does suggest, however, that if Council decides not to move to a committee system of governance, it might wish to consider whether further work should be carried out to explore how the existing system could be enhanced to address the concerns that some Members have about the existing system. CAG also wishes to point out however, that unlike a move to a committee system, which can only be introduced at an AGM of the Council, there is no time-limited element in respect of an enhancement to the current system.

7. Conclusions

- 7.1 Following full Council's in-principle decision in May 2013 to change the Council's form of governance to a committee form of governance, CROSP was instructed to task CAG with preparing a report to the Council concerning a change.
- 7.2 CAG has been considering the issues relating to the proposed move to a committee system of governance. It has sought to identify and explore a range of key principles upon which a committee system should be based, if Council decides on 25 November 2013 to approve

a change to this form of governance. In doing so it has reached conclusions on those areas of principle and has presented those conclusions in this report.

- 7.3 CAG has also looked at whether it might be possible to find ways to enhance the current Cabinet system that might address the concerns of those who believe that the current system excludes most Members from the decision-making process. CAG believes that Council should consider commissioning further work on this if it decides not to adopt a committee system of governance.

8. Implications

- 8.1 **Section 17 - Crime and Disorder:** None arising directly from this report
- 8.2 **Financial Implications :** Financial implications are set out in paragraphs 4.39 – 4.43
- 8.3 **Any other implications:** Officers have considered all the implications which members should be aware of. There are no other direct implications to take into account as this report simply sets out the results of the deliberations of CAG for members to consider

9. Equality Impact Assessment

- 9.1 This report is not making proposals which will have an impact on equality of access or outcomes for diverse groups.

10. Recommendations

- (i) That CROSP recommends to Full Council that a change to a committee system of governance should have the following features:-
- That there be 10 service committees as follows:-
 - Adult Social Services
 - Children's Services
 - Corporate Resources
 - Cultural Services
 - Development of the Economy
 - Finance
 - Fire and Protection
 - Schools
 - Transport
 - Waste and Environment
 - That the structure does not include a Policy and Resources Committee.

- That the structure of the committee system reflect the “Strong Council” model as set out in paragraph 4.15
 - That each service committee and the full Council have meetings scheduled monthly in order that the desired speed of decision making can be achieved.
 - That the size of committees be left for consideration by the group charged with drawing up a new Constitution should Council decide to move to a committee system of governance.
 - That apart from those areas where the Council will still be required by statute to arrange for scrutiny to be carried out, there will not be a general scrutiny function.
 - That the system include provision for decisions made by service committees to be contested and reviewed by full Council
 - That system include provision for urgent decisions to be taken should the need arise in between scheduled service committee meetings
 - That the system does not include area committees initially but that this be reviewed in the future.
 - That the existing scheme of delegations to officers be retained
- (ii) That CROSP recommends to full Council that if it decides not to move to a committee system of governance, it considers whether it would wish to direct that further work be carried out to look at possible enhancements to the existing Cabinet system

Councillor Cliff Jordan
Chairman of the Constitution Advisory Group

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Appendix 1

Committees of 10 seats

This would give a total of 100 seats, which allocated on a politically balanced basis, would give each political group an overall entitlement of:

Conservative – 48 seats

Labour – 18

UKIP – 17

Lib Dem - 12

Green – 5

However, applying the political balance across the 10 committees gives an allocation of:-

Cttees (10 seats)	Cons	Lab	UKIP	Lib Dem	Green
Adult SS	5	2	2	1	0
Children's Services	5	2	2	1	0
Corporate Rscs	5	2	2	1	0
Cult Svces	5	2	2	1	0
Economy	5	2	2	1	0
Finance	5	2	2	1	0
Fire & Prot	5	2	2	1	0
Schools	5	2	2	1	0
Transport	5	2	2	1	0
Waste & Env	5	2	2	1	0
TOTAL (100)	50	20	20	10	0

As can be seen from the table, this results in the total number of seats for each group being out of line with the overall entitlement as set out above There would need to be a realignment of the committee allocations in the table as follows:

Conservatives – Lose 2 places, i.e on 2 of the committees, they will reduce to 4 places

Labour – Lose 2 places

UKIP – Lose 3 places

Lib Dem – Gain 2 places

Green – Gain 5 places

Committees of 13 seats

This would give a total of 130 seats, which allocated on a politically balanced basis, would give each political group an overall entitlement of:

Of the total of 130 seats, allocated on a politically balanced basis, gives an entitlement for each Group of:

Conservative – 63 seats

Labour –23

UKIP – 22

Lib Dem - 16

Green – 6

However, applying the political balance across the 13 committees gives an allocation of:-

Cttees (13 seats)	Cons	Lab	UKIP	Lib Dem	Green
Adult SS	6	2	2	2	1
Children's Services	6	2	2	2	1
Corporate Rscs	6	2	2	2	1
Cult Svces	6	2	2	2	1
Economy	6	2	2	2	1
Finance	6	2	2	2	1
Fire & Prot	6	2	2	2	1
Schools	6	2	2	2	1
Transport	6	2	2	2	1
Waste & Env	6	2	2	2	1
TOTAL (130)	60	20	20	20	10

As can be seen from the table, this results in the total number of seats for each group being out of line with the overall entitlement as set out above There would need to be a realignment of the committee allocations in the table as follows:

Conservatives – Gain 3 places, i.e on 3 of the committees, they will increase to 7 places

Labour – Gain 3 places

UKIP – Gain 2 places

Lib Dem – Lose 4 places

Green – Lose 4 places

Committees of 17 seats

This would give a total of 170 seats, which allocated on a politically balanced basis, would give each political group an overall entitlement of:

Conservative – 82 seats

Labour –31

UKIP – 29

Lib Dem - 20

Green – 8

However, applying the political balance across the 10 committees gives an allocation of:-

Cttees (17 seats)	Cons	Lab	UKIP	Lib Dem	Green
Adult SS	8	3	3	2	1
Children's Services	8	3	3	2	1
Corporate Rscs	8	3	3	2	1
Cult Svces	8	3	3	2	1
Economy	8	3	3	2	1
Finance	8	3	3	2	1
Fire & Prot	8	3	3	2	1
Schools	8	3	3	2	1
Transport	8	3	3	2	1
Waste & Env	8	3	3	2	1
TOTAL (170)	80	30	30	20	10

As can be seen from the table, this results in the total number of seats for each group being out of line with the overall entitlement as set out above There would need to be a realignment of the committee allocations in the table as follows:

:

Conservatives – Gain 2 places, i.e on 2 of the committees, they will increase to 9 places

Labour – Gain 1 place

UKIP – Lose 1 place

Lib Dem – No change

Green – Lose 2 places

APPOINTMENTS TO OUTSIDE BODIES 2013/14

LOCAL GOVERNMENT ASSOCIATION APPOINTMENTS

LGA General Assembly (4)

Fire Services Commission (1)

Urban Commission (2)

Rural Commission (2) and 1 substitute

County Council Network (4)

East of England Local Government Association (1) and 1 substitute

LGA Coastal Issues Special Interest Group (1) and 1 officer

-
1. Active Norfolk Board (1)
 2. A47 Alliance (5)
 3. Aylsham Forum (1 The Local Member)
 4. BID (Business Improvement District) (1)
 5. Brecks Countryside Joint Advisory Panel (1)
 6. Broads Authority (2)
 7. Broads Tourism (1)
 8. Caistor Roman Town Joint Advisory Board (1)
 9. Catton Park Management Trust (1)
 10. Diss and District Community Transport Association Ltd (Borderhoppa) (1)
 11. Earthsea & Merrywood Houses (1)
 12. East of England Energy Group
 13. East of England Fire Forum (1 plus substitute)
 14. East of England Trading Standards Association Member Group (1)
 15. Environment Agency
Anglian (Eastern) Regional Flood and Coastal Committee (2)
Anglian (Central) Regional Flood & Coastal Committee (1)

- North Norfolk Catchment Flood Management Plan Steering Group (1)
16. E.U. Projects
- France (Channel) - England Cross Border Programme Monitoring Committee (1)
- Two Seas Cross-Border Programme Monitoring Committee (1)
17. Friends of Gressenhall Committee (1)
18. Green Britain Centre, Swaffham (1)
19. Green Quay/Marriotts Warehouse Trust
20. Great Yarmouth Area Board
21. Great Yarmouth Car Parking Strategy Steering Group (2)
22. Great Yarmouth College Corporation (1)
23. Great Yarmouth Economic Forum (1)
24. Great Yarmouth Port Authority (1)
25. Great Yarmouth Port Company – Community and Marine Liaison Committee (1)
26. Great Yarmouth Sports and Leisure Trust (1)
27. Great Yarmouth Town Centre Partnership Company (Gt. Yarmouth) Ltd (1)
28. Greater Norwich Development Partnership (4)
29. Heritage Economic & Regeneration Trust (1)
30. Hethel Innovation Ltd (2)
31. H.M.P. Bure Liaison Group (3 local members)
32. Hunstanton Convalescent Trust (1)
33. Governors Council of James Paget University Hospitals NHS Foundation Trust (1)
34. King's Lynn Conservancy Board (1)
35. King's Lynn Festival – Vice President (1)

36. King's Lynn Town Centre Management Partnership (1)
37. Local Enterprise Partnership (LEP) (1)
38. Moving Thetford Forward Board (3)
39. Moving Thetford Forward Programme Delivery Panel (2)
40. Norfolk and Norwich Association for the Blind (1)
41. Norfolk and Norwich University Hospital Trust – Council of Governors (1)
42. Norfolk and Norwich Novi Sad Association
43. Norfolk Arts Forum (2)
44. Norfolk Chamber of Commerce and Industry (1)
45. Norfolk Can Inspire (1)
46. Norfolk Coastal Centre for Independent Life Board (1)
47. Norfolk Coast Partnership (2 plus 2 substitutes)
48. Norfolk Community Health and Care NHS Trust (2)
49. Norfolk Council on Ageing (1)
50. Norfolk Association of Local Councils Executive Committee (1)
51. Norfolk Flood and Water Strategic Forum (1)
52. Norfolk Playing Fields Association (2)
53. Norfolk Rail Group (4)
54. Norfolk Rural Community Council (1)
55. Norfolk and Suffolk Energy Alliance
56. Norfolk and Suffolk NHS Foundation Trust – Partner Governor (1)
57. Norwich Airport Consultative Committee (1)
58. Norwich Airport Board (Non-Executive Director) (1)
59. Norwich Urban Fringe Project Advisory Panel (1)
60. Pride in Norfolk Award (4)

61. Queen Elizabeth Hospital Trust – Governors’ Council (1)
62. Royal Norfolk Agricultural Association (1)
63. Rev Active (1)
64. South Norfolk Safer Neighbourhood Panels (5) (1 member per Panel)
65. South Norfolk Alliance (1)
66. South Norfolk Partnership for Older People’s Services (1)
67. Standing Advisory Council for Religious Education (4)
68. St. George’s Trust (1)
69. Sutton Bridge Power Station Liaison Group (1)
70. The Forum Trust Ltd (1)
71. Theatre Royal Trust – The Board (1)
72. Thetford Municipal & United Charities (1)
73. University of East Anglia - The Court (4)
74. Virtual School Governing Body (1)
75. Visit Norwich Limited (1)
76. Wash and North Norfolk Coast European Marine Site Management Scheme (2)
77. Waste Management Strategic Board (2)
78. West Norfolk Partnership (1 plus 1 substitute)
79. West Norwich Partnership (1 plus 1 substitute)
80. Whitlingham Outdoor Education Centre Partnership (1)