

BRECKLAND DISTRICT COUNCIL

Report of: Rob Walker, Monitoring Officer and Executive Director

To: Full Council – 20 January 2022

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Subject: General Purposes Committee

Purposes: To consider re-establishing the General Purposes Committee

Recommendations:

1. That the General Purposes Committee be re-established with immediate effect as follows:
 - (a) the Committee be given full powers to (i) determine all issues relating to member and staff training (i.e. the former duties of the Member Development Panel), and (ii) undertake the following functions as described in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (provided they are within budget and except where any function must specifically be undertaken by Full Council):
 - functions relating to health and safety at work;
 - functions relating to elections;
 - functions relating to community governance;
 - amending, revoking, re-enacting, or enforcing byelaws;
 - functions relating to smoke free premises;
 - functions relating to pensions;
 - appointment of staff and determination of terms and conditions on which they hold office (including procedures for dismissal) – (this will include service reviews, appointment of staff, provision of staff for HOPS, MO and any person nominated by MO, and staffing policies that relate in any way to terms and conditions of employment including redundancy, early retirement, and discretionary compensation, but excluding those staffing issues delegated to the Appointments and Disciplinary Committee);
 - power to make payments or provide other benefits in cases of maladministration, etc.;
 - Alcohol Designated Public Places;
 - Alcohol Disorder Zones.
 - (b) the Committee comprise 6 members, allocated in accordance with political group regulations;
 - (c) the quorum be 3;
 - (d) substitute members be permitted, with 1 substitute member nominated by each group.
2. That in accordance with Standing Order no. 34 the Chairman and Vice-Chairman of the General Purposes Committee be elected;

3. That the draft amended Standing Order 30 shown at Appendix A be approved and adopted to include reference to substitute members;
4. That the Independent Remuneration Panel be requested to submit, if possible, a recommendation regarding a chairman's allowance to the annual Council meeting in May 2022. If this is not possible any allowance be backdated to the date on which the Committee first meets, pro rata;
5. That, initially, meetings be scheduled on a quarterly basis, with additional meetings arranged if required;
6. That the Member Development Panel is decommissioned, and its duties are inherited by the newly formed General Purposes Committee;
7. That the proposed variations to the Constitution detailed in Appendix B be approved.

1.0 BACKGROUND

- 1.1 The former General Purposes Committee was decommissioned at Full Council on 28 July 2016, following a review of the Committee structure.
- 1.2 Officers have now been asked to consider the implications of re-establishing the General Purposes Committee so that important non-executive matters can be considered more thoroughly by Members, thereby allowing openness and transparency in the decision-making process. This report considers the issues which must be considered if members wish to re-establish the Committee.

2.0 CONSIDERATIONS

Functions, Terms of Reference and Quorum

- 2.1 Members will be aware that the Council's functions are either executive or non-executive as follows:
 - decisions relating to "executive" functions are taken by the Leader, the Cabinet, any Committee of the Cabinet, portfolio holders and officers with delegated authority from any of the above; and,
 - decisions relating to "non-executive" functions are taken by the Council, or its committees (i.e. the Planning Committee, Licensing Committee and Governance and Audit Committee) and officers with delegated authority from any of the above.
- 2.2 Previously, the General Purposes Committee, as a committee established by Full Council, dealt only with non-executive functions. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) dictate which functions are executive and non-executive functions and give local authorities the option to choose whether some listed functions are executive or non-executive. Where the regulations are silent the function is executive.
- 2.3 At the time of its decommissioning, the General Purposes Committee had full decision-making powers and was authorised by the Council to carry out any non-executive functions which were not reserved to Full Council or specifically delegated to another Committee. The main functions of the Committee were as follows:

- Health & Safety at Work
- Electoral Matters
- Staffing matters, other than large scale staffing reviews
- General Byelaws
- Public Footpaths, Bridleways, and Highways
- Commons
- Sex Establishments, and other licensing functions not allocated to any other Committee.

- 2.4 Of the 16 decisions made by General Purposes Committee between 2014-2016, 10 related to staffing matters including 5 service reviews, 3 staff policy reviews, and decisions relating to the pay policy statement, and review of remuneration package. There were 3 electoral matters, and the remainder were governance reviews, licensing, and pension issues.
- 2.5 If members wish to re-establish the Committee it will be necessary to reconsider which functions to refer to the Committee as all its existing functions were reallocated in 2016. To do this it is necessary to consider Regulation 2 and Schedule 1 of the 2000 Regulations which list the many functions which cannot be undertaken by the executive (and are therefore non-executive functions).
- 2.6 All functions detailed in Regulation 2 and Schedule 1 which come under planning or licensing legislation were reallocated to the Planning and Licensing Committees in 2016 and it is not considered appropriate to reallocate these back to the General Purposes Committee. Other functions such as making standing orders, appointing Proper Officers, and planning for the proper administration of the Council's financial affairs are considered best placed with Full Council. Some functions may only, by law, be decided by Full Council and one function relating to the approval of the Council's statement of accounts is delegated to the Governance and Audit Committee which is considered appropriate.
- 2.7 The remaining functions are detailed below, grouped into categories in the first column of the table below in the same way as they are grouped in the regulations. All these functions, which are currently delegated as shown in the second column below, are recommended for reallocation to the General Purposes Committee:

Function	Current responsible body	Suitable for General Purposes Committee ?
Functions relating to health and safety at work	Licensing Committee	Yes
Functions relating to elections	Full Council	Yes - except where the function must specifically be undertaken by full Council
Functions relating to community governance	Full Council	Yes – except where the function must specifically be undertaken by full Council
Power to make amend revoke re-enact or enforce byelaws	Full Council	Yes - except where the function must specifically be undertaken by full Council.
Functions relating to smoke-free premises	Full Council	Yes
Functions relating to pensions etc	Full Council	Yes – except where the function must specifically be undertaken by full Council

Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Full Council (The Appointments and Disciplinary Committee currently approves staffing policies re redundancy, early retirement, and discretionary compensation)	Yes – subject to the functions being within budget
Duty to provide staff etc to Head of Paid Service, Monitoring Officer and any person nominated by Monitoring Officer	Full Council	Yes
Power to make payments or provide other benefits in cases of maladministration etc	Full Council	Yes (officers currently have delegated powers to deal with maladministration in some cases subject to approval and informing the Overview and Scrutiny Commission)
Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Full Council	Yes - except where the function must specifically be undertaken by full Council
Power to make or revoke an order designating a locality as an alcohol disorder zone	Full Council	Yes - except where the function must specifically be undertaken by full Council

2.8 In addition to the above, it is recommended that the functions of the Member Development Panel (member and staff training) be allocated to the Committee. For further clarity, it should be noted that whilst the new General Purposes Committee will pick up responsibility for certain staffing matters the Appointment and Disciplinary Committee will remain with its responsibilities regarding the appointment and dismissal of, and the taking of disciplinary action against, the Chief Executive, Head of Paid Service, Monitoring Officer, S151 Officer and other Chief Officer posts.

2.9 Regulation 3 and Schedule 2 of the Regulations describe those functions which may be (but need not be) the responsibility of the Executive. Most of those functions are allocated to Cabinet and there is not considered to be any need to reallocate these to the General Purposes Committee.

Extent of delegation

2.10 Part 3 Section B of the Constitution states that “*there shall be delegated to every Committee and Sub-Committee of the Council full powers to act in all matters covered by the Committee or Sub-Committee’s Terms of Reference, subject to compliance with Standing Orders and/or financial regulations for the time being in force.*” It is recommended that this should also apply to the General Purposes Committee.

Size and Composition of Committee

- 2.11 Traditionally Committees have had a membership of either 6 or 12. The General Purposes Committee was previously 12 but it is considered that 6 is more appropriate and more workable size and this number is recommended.
- 2.12 Under the Local Government and Housing Act 1989 the default position is that “ordinary” committees of Full Council must be appointed on politically proportionate grounds. The Act does allow for exceptions subject to notice of the proposed alternative arrangements being given to each member (usually done by way of service of an agenda) and no member voting against such proposals. Any alternative arrangements must be reviewed annually. These requirements mean that any decision to adopt alternative arrangements for the appointment of the Committee cannot be made at this meeting however, there are no reasons why the Committee should not be politically balanced, and it is recommended that the Committee be appointed in accordance with the Local Government (Committee and Political Groups) Regulations 1990. This would mean seat allocation as follows:

Conservative Group	5
Labour Group	1
Independent Group	0
Other	0

Quorum

- 2.13 Standing Order no. 38.1 states that “*the quorum of each Committee and Sub-Committee shall be three or one-third whichever is the greater, of the total number of its members not including non-voting ex-officio members or as otherwise specified in legislation or as specified below.*” It is recommended that this also apply to the General Purposes Committee, which would mean a quorum of 3.

Substitutions

- 2.14 As members of this Committee would not require any specific training it would not be necessary to restrict substitutions. It is suggested that each political group should nominate 1 substitute member.
- 2.15 Substitutes are normally appointed at the annual meeting of the Council but this is not laid down in the Constitution. It is considered appropriate to adopt a protocol dealing with matters such as whether a substitute should act for the entire meeting if the original member is able to attend part of the meeting, what happens if the meeting, or an agenda item, is adjourned, and to ensure that substitutes do not act as Chairman or Vice-Chairman if they are substituting those members. This should avoid any potential for legal complications. It is recommended that Standing Order no. 30 be amended to deal with such matters as shown at Appendix A.
- 2.16 Standing Order no. 53 states that any motion to add to, vary or revoke Standing Orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council. This requirement does not apply to any report designed to amend the Constitution and which has been approved by the Monitoring Officer. As the Standing Order is being proposed by the Monitoring Officer there is no requirement for it to stand adjourned.

Frequency of Meetings

- 2.17 The previous General Purposes Committee was scheduled every six week or so in line with the cycle of meetings for Council, Cabinet, and Overview and Scrutiny Commission (Planning meets monthly). The remainder take place on a less frequent basis: Licensing meets quarterly, and the Governance and Audit Committee meets approximately five times a year.
- 2.18 Initially, it is recommended that meetings be scheduled quarterly, with additional meetings being arranged if necessary

Chairman and Vice-Chairman of Committee

- 2.19 The Committee, if established, will be a standing Committee of the Council. Under Standing Order no.34 the Chairman and Vice-Chairman of each Standing Committee may be appointed at the annual meeting of the Council or as soon as possible thereafter and from time to time as necessary. Appointment of the Chairman and Vice-Chairman is included within the recommendations.

Chairman's Allowance

- 2.20 Chairmen of standing Committees are normally permitted an allowance. All members' allowances require Council approval following a recommendation from the Council's Independent Remuneration Panel. The current allowances apply with effect from 1 April 2021 and are in place until the end of March 2023. The Panel is not scheduled to meet until the autumn of 2022 but if members wish to re-establish the General Purposes Committee the Independent Remuneration Panel will need to meet and agree a recommendation for submission to Council. For comparison purposes and not pre-empting the work of the Panel it is presumed the role will be similar to that of Chairman of the Governance & Audit Committee.
- 2.21 It is recommended that the Panel be asked to convene, if possible, with a view to submitting a recommendation to the annual Council meeting in May 2022. If this is not possible any allowance will be backdated to the date on which the Committee first meets, pro rata.

Constitution

- 2.22 Appendix B shows proposed variations to the Constitution assuming the recommendations included within this report are approved.

3.0 OPTIONS

- 3.1 Members have the choice to:

- decide whether to re-establish the Committee;
- decide which, if any, of the non-executive functions detailed in the report should be delegated to the General Purposes Committee;
- decide the size of the Committee, but it is recommended that the Committee comprise 6 members;
- decide whether to allow substitute members, but this is recommended;
- decide not to adopt the requirements of the political group regulations and instead propose alternative arrangements for the composition of the Committee. This would necessitate complying with the procedure for alternative arrangements. This is not considered an appropriate option and it is recommended that the usual political group balance requirements apply;

- determine the frequency of meetings. It is suggested that in the first instance that quarterly meetings will suffice with additional meetings arranged if necessary. This can then be reviewed at any point if considered appropriate.

4.0 REASONS FOR RECOMMENDATIONS

4.1 It is considered appropriate to re-establish the General Purposes Committee so that important non-executive matters can be considered more thoroughly by members, thereby allowing openness and transparency in the decision-making process.

5.0 EXPECTED BENEFITS

5.1 That important non-executive matters are considered more thoroughly by members in an appropriate committee setting.

6.0 IMPLICATIONS

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

Constitution & Legal

6.1 Full Council is responsible for non-executive functions, as detailed in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and may arrange for the discharge of any of those non-executive functions by any Committee or Sub-Committee in accordance with Section 101 of the Local Government Act 1972.

6.2 Any proposed amendments to the Constitution must be agreed by Full Council.

Financial

6.3 There may be financial implications arising from the recommendations of the Independent Remuneration Panel.

Staffing

6.4 There are no staffing implications arising directly out of this report.

7.0 WARDS/COMMUNITIES AFFECTED

7.1 None.

8.0 ACRONYMS

8.1 HOPS – Head of Paid Service.

8.2 MO – Monitoring Officer.

Appendix A - Proposed amended Standing Order no. 30

STANDING ORDER NO. 30

Appointment of Committees for Non-Executive Functions

- 30.1 The Council shall at the Annual Meeting appoint such Committees as they are required to appoint by or under any statute, and may at any time appoint such other Committees as are necessary to carry out the Non-Executive Functions of the Council, but, subject to any statutory provision in that behalf:
- a) shall not appoint any member of a Committee so as to hold office later than the next annual meeting of the Council;
 - b) *may at any time dissolve a Committee or alter its membership.*
- 30.1 *Where it is considered appropriate, the Council may also at its Annual Meeting, or at such other time as may be appropriate, appoint named substitute members for any Committee or Sub-Committee.***
- 30.2 *No substitute member shall be appointed in such capacity later than the next annual meeting of the Council.***
- 30.3 *Substitute members of any Committee or Sub-Committee shall have the powers and duties of any ordinary member of the Committee or Sub-Committee and shall not exercise any special powers or duties of the member they are substituting such as acting as Chairman or Vice-Chairman.***
- 30.4 *Ordinary members of any Committee or Sub-Committee may only be substituted at any meeting:***
- (a) *where the ordinary member will be absent for the whole of the meeting; and*
 - (b) *provided the ordinary member (i) notifies the democratic services team that they cannot attend the meeting and of the name of their substitute and (ii) notifies the substitute; and*
 - (c) *(where relevant) they have received any appropriate training.*
- 30.5 *Where any meeting of a Committee or Sub-Committee at which a substitute member is present is adjourned and not resumed after the start of the meeting, then at the meeting at which the adjourned items are considered (the adjourned meeting) the ordinary member, if present at the adjourned meeting, may not take part in any discussion or voting on any item that was subject to discussion prior to the adjournment.***

APPENDIX B – Proposed variations to the Constitution

Paragraph 1.7 of Part 3 Section B (page 26) be amended as follows:

1.7 Each Committee may recommend to ~~Council~~ **the General Purposes Committee** the making of bye-laws relevant to any function of the Committee

Terms of reference of full Council (page 30)

The following item be removed:

~~7. Making, amending, revoking, re-enacting, or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.~~

Terms of reference of Appointments and Disciplinary Committee (page 36)

The following item be removed:

~~5. Approving staffing policies in respect of redundancy, early retirement, and discretionary compensation.~~

Part 3 Section D (Delegations to Committees – Non Executive Functions - The following table be added

Body	Membership	Functions / Terms of Reference
General Purposes Committee	6 members in accordance with Local Government (Committees and Political Groups) Regulations 1990) (Quorum 3 SO no. 38) Substitutions: The Council shall appoint 1 named substitute for each political group	<ol style="list-style-type: none"> 1. Determination of all issues relating to member and staff training. 2. The following functions as described in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (provided they are within budget and except where any function must specifically be undertaken by full Council): <ul style="list-style-type: none"> • functions relating to health and safety at work • functions relating to elections • functions relating to community governance • amending, revoking, re-enacting or enforcing byelaws • functions relating to smoke free premises • functions relating to pensions • appointment of staff and determination of terms and conditions on which they hold office (including procedures for dismissal) – (includes service reviews, appointment of staff, provision of staff for HOPS, MO and persons nominated by MO, and staffing policies that relate in any way to terms and conditions of employment including redundancy, early retirement and discretionary compensation but excluding those staffing issues delegated to the Appointments and Disciplinary Committee) • power to make payments or provide other benefits in cases of maladministration etc • Alcohol Designated Public Places and • Alcohol Disorder Zones