

Council – 12th January 2015

Amendment to Constitution – Part 5 - Protocols

1. Summary of report

This report sets out proposed amendments to the Constitution in accordance with the requirements of Article 14 which requires the Council to monitor and review the operation of the Constitution in order to ensure that the aims and principles of the Constitution are given full effect.

2. Recommendations

- 2.1 That the proposed amendments to Protocol 14 – Visits by HM Government ministers and shadow ministers as set out in Appendix 1 to this report be approved.
- 2.2 That Protocol 16 - Use of resources by Councillors as set out in Appendix 2 to this report be approved. That councillors indicate what group size should permit a personal assistant to be appointed to support a group leader from the options as set out in paragraph 3.2 of this report.

3. Report detail

3.1 14 – Visits by HM Government ministers and shadow ministers protocol

The current protocol set out in Part 5 of the Constitution was adopted by the Council in May 2010.

As the Government Regional Office no longer exists the protocol has been amended by inserting “the appropriate Government office” in paragraphs 2.1 and 2.2. The amended protocol is attached as Appendix 1 to this report.

3.2 16 - Use of resources by Councillors protocol

The current protocol which is set out in Part 5 of the Constitution was drafted by the Monitoring Officer in order to provide a guide to Councillors on the use of council resources. This protocol was adopted by the council at its Annual Meeting held on 21st May 2012.

It has been decided to present a more detailed protocol which sets out the resources that will be available to support Councillors. The protocol is attached as Appendix 2 to this report.

In particular elected members are asked to consider that part of the protocol under the heading “Member support “ which sets out the criteria for determining when assistants to group leaders will be provided by the council to support the functioning of a political group.

Historically there has been confusion regarding the role of the assistants to the group leaders as they have been incorrectly considered to be Political Assistants

as per s9 of the Local Government and Housing Act 1989. This confusion has led to the assumption that they are subject to the statutory restriction that to be entitled to an assistant to a group leader, the group of elected members has to consist of ten per cent of the total number of councillors comprising the council as a whole. They are not political assistants, and as a consequence there is no statutory restriction. This was confirmed in a report to Cabinet dated 21st April 2004 which stated:

“It should be noted that Walsall Council does not currently have any of these posts. There are some posts called Political Assistants but these do not fall within the scope of the Act as they carry out administrative and secretarial duties only. Therefore these posts should not be politically restricted.”

The level of support required to assist group leaders in the discharge of their responsibilities to the electorate and the council is a matter for the executive to resolve as any such provision would need to be within budget and is an operational decision. There would need to be consultation with all groups of the council to ensure that this issue is determined in an equitable manner. It is for council to approve a protocol for the use of resources.

Political groups will be consulted on the following options:

Personal Assistants will only be allocated to Leaders of a group where that group comprises of,

1. 20% of the entire membership of the council which equates to 12 elected members.
2. 15% of the entire membership of the council which equates to 9 elected members of the council.
3. 10% of the entire membership of the council which equates to 6 elected members of the council.
4. 5% of the entire membership of the council which equates to 3 elected members of the council.
5. 2 elected members comprising a group under s8, Local Government (Committees and Political Groups) Regulations 1990

Even though the posts the council currently has in place to support the Leaders of the political groups are not Political Assistants for the purpose of the Local Government and Housing Act 1989, it is arguable that it would not be in the spirit of the legislation as drafted, to offer support to political groups that fall below 10% of the entire membership of the council. For ease groups that fall below the agreed “de minimis” level for the purposes of this protocol will be referred to as “small groups”.

It still needs to be recognised that elected members other than those belonging to the main parties will require a level of support particularly where those members do not form a political group of the council or are ungrouped elected members. At present it is proposed that individual group rooms will be available to smaller groups comprising of at least three elected members.

The precise level of additional support required for such minority groups or ungrouped elected members is difficult to quantify particularly as this will depend

upon the democratic process going forward. It is therefore suggested that this additional support should be co-ordinated by the Head of Democratic Services using where possible from existing employee resources. This would provide a flexible arrangement dependent upon the workload generated by members in question and would allow the effectiveness of the arrangements to be reviewed in due course.

3.3 Financial Implications

Any resources to support group leaders and elected members will have to be met from existing budgets. Any increase in the support to group leaders and elected members will have to be factored into baseline budgets for forthcoming years. The council has an obligation to achieve best value in its use of resources


Background papers: Published

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A handwritten signature in black ink, appearing to read "Anthony A.", is centered on the page. The signature is written in a cursive style with a large initial 'A'.

Signed:

Head of Legal and Democratic Services and
Monitoring Officer

Date: 2nd January 2015

14 – Visits by HM Government ministers and shadow ministers protocol

Government ministerial visits can fall into two categories – Political and Official.

1. Political visits

Such visits are arranged by or through the political parties or Members of Parliament themselves for political promotion purposes and officers should not take part in these visits. However, it is recognised that some political visits may be for purposes where briefings by Council officers could benefit the Council. These situations must always be the subject of prior discussion with the Chief Executive.

2. Official visits

2.1 Official visits will usually be organised by the appropriate Government office. Attendance at such visits has to be agreed between the Council and the Minister. In seeking agreement about attendance, consideration should be given to the following:

- the Leader of the Council
- all other political group leaders
- the appropriate Cabinet member
- the appropriate Scrutiny and Performance Panel and/or Council Committee chair
- the ward Councillors if the visit includes initiatives or issues which have a particular ward connection. Visits for purposes which affect more than one ward would not normally involve ward Councillors
- the Chief Executive, Executive Directors and support staff as appropriate.

Variations to this list must always be the subject of prior agreement with the Chief Executive. It is acknowledged that it is not for either the Council or the Minister's Office to determine attendance but for agreement between the two.

2.2 It is not necessary for Council officers to concern themselves about arrangements for the Member of Parliament to attend on Ministerial visits. These arrangements are handled direct by the appropriate Government office.

2.3 It is also important to alert all Executive Directors to forthcoming ministerial visits so that clashes of visits can be avoided.

2.4 The Chief Executive must always be consulted in cases of difficulty and requests to vary this protocol for particular visits should be referred to the Chief Executive.

2.5 Shadow ministerial visits will fall into the "political visits" category.

16 - Use of resources by Councillors protocol

Introduction

1. The purpose of this protocol is to provide a guide to the use of Council resources by Councillors. The key principle underlying this protocol is that public office and public resources should not be used to further purely private or party political purposes.

Resources provided to Councillors

2. The Council provides a range of facilities to support Councillors, including stationery, postage, photocopying, and an e-mail address and officer support to enable Councillors to carry out their duties as a Councillor. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
3. Councillors, or anyone authorised by them, may only use these resources for Council business, such as correspondence relating to Council business or services or replying to letters from local residents.
4. The use of any Council resources for political purposes or election purposes would be a breach of the Council's Members' Code of Conduct unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed. If members are in any doubt they should seek advice from the Head of Democratic Services or Monitoring Officer.
5. Provided that they are not in connection with political purposes, Councillors may make private telephone calls and use copiers for private copying in accordance with charges set by the Council from time to time. If members are in any doubt they should seek advice from the Head of Democratic Services or Monitoring Officer.
6. Councillors are provided with an official Council e-mail address for use as part of their duties as a Councillor. This e-mail address may not be used for any political purpose unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
7. The e-mail address should not be used in any ward newsletters which contain election material or which are distributed during any election period (which runs from the publication of the notice of election to the close of the polls).

8. Councillors supplied with a council computer and internet connection facilities must sign the council's standard agreement for the use of such IT equipment and services.
9. It should also be pointed out that timing will be material. During the time prior to any election – local, parliamentary, European or indeed a referendum – it is likely that a firmer line will be taken in terms of what can and cannot be said, as the perception of “politicking” and the use of public resources for political purposes is more likely to be carefully scrutinised. The council's Code of Conduct on Publicity is clear that in the period of time leading up to an election, all forms of publicity – and that would include letters produced by members and sent to constituents – must conform with additional safe-guards and requirements. Members, therefore, need to refer to that in considering the content (as well as the circulation) of any correspondence during this time.

As always, this is an issue that is predominantly one of subjective judgements and, as a result, members may wish to seek advice on a case-by-case basis.
10. The attached schedule contains details of resources available to Councillors.

Breach of this protocol

11. Failure to comply with the requirements for the use of council resources as set out in this protocol will constitute a potential breach of the Council's Members' Code of Conduct.
12. Members should ensure that they understand and comply with the council's own rules about the use of such resources particularly:-
 - Where facilities are provided in members' homes at the Council's expense;
 - In relation to locally-agreed arrangements, e.g. payment for private photocopying; and
 - Regarding ICT security.

Schedule – Resources available to Councillors

Member support	
Personal Assistants to group leaders	Provision of this support will only be provided where the political group concerned equates to a minimum of [20%], [15%],[10%][5%][2 Elected members] [of the total membership of the Council]
Accommodation	
Members' rooms	Political groups will be provided with an individual group room where that group comprises of at least three elected members.
Meeting rooms in Council House	Councillors can book meeting rooms in the Council House for group meetings or meetings relating to Council business for no charge. A fee is chargeable for all other political meetings.
Access to accommodation	Councillors are issued with security passes to provide access to the Council House and Civic Centre. It can double up as an identity badge and can be used both when visiting Council establishments and attending outside meetings.
Surgeries	Councillors can organise surgeries within their electoral ward to provide an opportunity to meet members of the public. It is up to the individual Councillor to organise the surgery. Councillors are encouraged to use Council accommodation providing the venues are open and staffed at the time required. Libraries have proven to be good resources for surgeries.
Stationery	
Use of printed stationery	<p>Headed paper, compliment slips and business cards with the Council's logo and the Councillors home address are provided to Councillors on request.</p> <p>Council stationery and postage may only be used by Councillors as part of their duties as an elected member. They may not be used for any party political or election purposes whatsoever.</p>
Use of the Council logo	Councillors may use the Council logo solely for Council business and must not be used for party political purposes.
Office stationery	<p>The Council provides printer paper, pre-paid envelopes and other reasonably necessary stationery. Councillors are expected to get all other stationery themselves from their basic allowance.</p> <p>Council stationery and postage may only be used by Councillors as part of their duties as an elected member. They may not be used for any party political or election purpose whatsoever.</p>

ICT equipment	
ICT solutions	<p>The Council offers a mix of ICT solutions to meet individual needs, which includes laptops. Councillors should contact the Head of IT if they have any queries.</p> <p>The Council monitors all computer activity and if there is evidence that a Councillor is not adhering to the relevant policies and guidelines, the Council reserves the right to take appropriate action.</p>
Council e-mail address	<p>All Councillors are provided with a unique e-mail address and password for use only on Council business.</p> <p>Councillors are provided with an e-mail address. This is an official address and may only be used by Councillors as part of their duties as an elected member. It may not be used for any party political purpose or appear on any election material or election publicity whatsoever. Councillors may use their Council e-mail address on their ward newsletters as a means of enabling their constituents to contact them.</p>
Mobile phones	<p>Basic mobile phones are provided to all members on request.</p> <p>Council mobile phones are provided for business purposes and should only be used for personal use in exceptional circumstances where there is no alternative. Where personal use of a Council mobile phone is unavoidable and urgent, a charge will be made for the call or text.</p>
Printer cartridges	<p>The Council provides replacement cartridges for printers provided by the Council.</p> <p>Council stationery may only be used by Councillors as part of their duties as an elected member. Any personal printing should be kept to a minimum. Printers should not be used for private business purposes.</p>
ICT helpdesk	Councillors can access the normal helpdesk during office hours.
Publications information	and
Agendas	Printed agendas will be provided to Councillors if they sit on a particular Committee. All other papers will be sent by e-mail.
Photocopying	<p>A photocopier is available in group rooms which is suitable for low volume copying.</p> <p>If large amounts of photocopying are required,</p>

	however, for example copies of large documents, Councillors should contact the Head of Democratic Services regarding their charges.
Travel	
Mileage	Mileage or fares will be paid as set out in the Members' allowances scheme.
Training	
Members training programme	A full programme of training is provided for Councillors. For information on this contact the Head of Democratic Services.