

GOVERNANCE

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 24 September, 21 October and 11 November 2025. Attendance:

Councillors Glazier, OBE (Chair) (3), Bennett (3), Bowdler (3), Collier (3), Denis (3) and Tutt (3).

1. Amendment to the Constitution – Access to Information Procedure Rules

1.1. The Constitution sets out a requirement to publish an annual notice regarding the Forward Plan in at least one newspaper circulating in the area of the local authority. This requirement stems from legislation that has been repealed and as such this provision is not necessary and serves no practical purpose.

1.2. The Leader of the County Council continues to prepare a Forward Plan which is published on the Council's website on the last working day of the month detailing decisions including Key Decisions to be taken in the forthcoming 4 months in accordance with Regulations.

1.3. The Constitution is kept under review, and the most recent review has identified an out-of-date requirement which is no longer required and serves no practical purpose, and which it is therefore recommended be deleted.

1.4. Proposed amendments to the Constitution are set out at Appendix 1 of this report.

1.5. This recommended amendment to the Constitution will not alter or affect the contents of or the way in which the Forward Plan is published

1.6. The Committee recommends the County Council to:

- ❖ approve the amendment to the Access to Information Procedure Rules as set out in Appendix 1 of the report; and
- ❖ agree that the Constitution be amended accordingly.

2. Amendment to the Constitution – Budget Setting Meeting

2.1. The Local Government Finance Act 1992 sets out the Council's legal obligation to set an annual balanced or 'fully funded' budget prior to 11 March for the forthcoming financial year. Failure to set a budget by this date could have significant financial, administrative and legal implications and incur reputational harm for the Council.

2.2. The responsibility for determining the Council's budget rests with Full Council. Ahead of consideration by Full Council, Cabinet agrees at its meeting in January its recommendations to Full Council with regard to the draft Council Plan, revenue budget and capital programme for the following financial year. At its subsequent meeting in February each year, Full Council then debates the Cabinet's proposed budget and determines whether to adopt it in its proposed form or whether to agree an amended budget.

2.3. With regard to proposed amendments to the budget, Members wishing to move an amendment to the revenue budget or capital programme are encouraged to consult the relevant Chief Officer and the Chief Finance Officer (S151 Officer) prior to moving the amendments, and where possible prior to the meeting. Members are able to propose amendments at any time, provided they are seconded. The current arrangement therefore leaves little time to consider the implications of the proposed amendments and for advice to be provided to Members.

2.4. In support of this report, research was undertaken into the budget amendment procedures practiced by other local authorities. This indicated that there are varying approaches regarding the rules for when and how Members propose budget amendments. Neighbouring authorities, such as West Sussex County Council and Surrey County Council, do not specify the amendment process within their Constitutions and instead utilise an informal procedure comparable to the current approach adopted by ESCC. Whilst there is no consensus, it is the case that the majority of council's reviewed for this report do require budget amendments to be submitted prior to the budget setting meeting of their Councils.

2.5. Where authorities do engage a formalised process there is consensus that amendments must be submitted in writing and receive approval prior to circulation.

2.6. The S151 Officer carries responsibility for managing the Council's finances, including:

- ensuring that the budget submitted to Council for approval is balanced and soundly based;
- ensuring that all spend is fully and openly accounted for; and,

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- ensuring that all decisions and commitments by the Council have clear financial implications set out and understood.

2.7. As such stipulating that the S151 Officer has approval of budget amendments ensures that proposals taken to Full Council are financially viable prior to Members debating whether they should be adopted.

2.8. In a majority of the local authorities researched, the amendments proposed by Members are circulated to Full Council in advance of the meeting. The increased visibility of proposed amendments helps ensure that it is possible for officers to ensure that the proposal is viable and facilitates a stronger level of scrutiny and debate at the Full Council meetings.

2.9. It is therefore proposed to alter the process for tabling amendments so that Members would be required to submit budget proposals in writing to the S151 Officer and Monitoring Officer 3 clear working days in advance of the budget setting meeting. Proposals would then require S151 Officer approval prior to circulation to Members ahead of the budget meeting. Any proposals received less than 3 clear working days before the meeting would not be accepted and therefore not considered at the meeting, unless agreed by the Chief Finance Officer. This rule would only apply when Cabinet does not seek to make changes to its budget recommendations prior to Full Council consideration.

2.10. As with questions from the public which are also circulated after the publication of the Council papers, budget amendments would be published as a supplement to the agenda.

2.11. It is proposed that Part 4, Part 3 Budget and Policy Framework of the Constitution is updated to ensure that the governance process is robust and is reflective of the changed environment and the Council's financial position. The revised process will enable greater oversight on amendments, for their implications to be properly considered and for effective support to be provided to Members on budget setting decisions.

2.12. The revisions to the Constitution outlining the proposed process are set out at Appendix 2.

2.13. The governance route for proposed amendments to budgets has been reviewed in light of the evolving financial and political environment of the Council. This is to enable those advising members to have sufficient time to make sure that the implications of the amendments are properly understood and help ensure that Members are able to make informed financial decisions.

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2.14. It is recommended to formalise the amendment process by requiring that all proposed budget amendments be submitted in writing to both the s151 Officer and the Monitoring Officer 3 clear working days prior to the budget setting meeting. Should an amendment be received after this date it would not be allowed to proceed unless that CFO agreed it could, this is to ensure that where a situation arises such as late confirmation of Government funding late amendments can be made.

2.15. To formalise the budget amendment process, it is being recommended to alter the Constitution to include the additions outlined in Appendix 2 to clarify the route for proposals.

2.16. The Committee recommends the County Council to:

- ❖ agree the proposed process for presenting Budget Amendments to Full Council as set out in paragraph 2.9 of the report;
- ❖ agree the proposed amendments to the Constitution as set out in Appendix 2 of the report;
- ❖ agree that this process only applies when Cabinet makes no changes to its budget recommendations prior to Full Council consideration, and
- ❖ agree to update the Constitution accordingly

3. Scrutiny Call-in Process

3.1. The Local Government Act 2000 provides for the scrutiny of decisions once they have been made but before they have been implemented. This part of scrutiny committees' wider overview and scrutiny role is generally referred to as 'call-in'.

3.2. The process that is to be followed is set out in the Overview and Scrutiny Procedure Rules within the County Council's Constitution. A summary of the process set out is attached at Appendix 3.

3.3. Since November 2024 there have been four call-in requests requiring the procedure to be invoked. In the course of these requests being made and responded to, a number of queries and requests for information about the process have been received from Members, indicating that they would find additional clarity and guidance beneficial. Consequently, the views of the Scrutiny and Audit Committee Chairs and Vice Chairs Group have been sought on the current process and what could be done to provide clarification and guidance.

3.4. The Scrutiny and Audit Committee Chairs and Vice-Chairs supported the provision of further written guidance for Members and recommended the development of a checklist which would navigate Members through the procedure as set out in the Constitution whilst retaining Members' ability to lead the call-in process.

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3.5. The checklist, which has been reviewed and endorsed by the Chairs and Vice Chairs Group and the Committee, was approved by the Governance Committee at its meeting on 21 October. The content is closely aligned to the considerations and procedure set out in the Constitution. Some additional clarification was included, with a view to how the Constitution should be interpreted including:

- a deadline of 4pm on the final day of the call-in window for a request to be submitted to the Deputy Chief Executive – this is to ensure there is clarity about the deadline and that requests are received during working hours;
- that each Member wishing to support a call-in request confirms this (ahead of the 4pm deadline) individually by email, for the avoidance of doubt as to whether a Member wishes to support a call-in request; and
- as requested by the Chairs and Vice Chairs Group, that Members considering a call-in request should inform their group leader (where relevant) to support a role for group leaders, as well as officers, in communications and advice on a potential call-in, particularly where the grounds are less clear.

3.6. The checklist is available on the Councillors' intranet area, or by email or hard copy on request, and can be completed electronically.

3.7. At the Governance Committee meeting on 21 October, a proposal to extend the call-in period from 4 to 5 days was moved and seconded to allow Members more time for submissions. The Governance Committee resolved to recommend the County Council to change the call-in period from 4 days to 5 days as outlined in Part 4, Rules of Procedure in the Constitution as set out in Appendix 4.

3.8. The Committee recommends the County Council to:

- ❖ agree a change to the call-in period from 4 days to 5 days; and
- ❖ agree that the constitution be amended accordingly.

4. Customer Experience Annual Report

4.1. The Local Government & Social Care Ombudsman (LGSCO) launched a new Complaint Handling Code (the Code) in February 2024 in order to provide a single standard for complaint handling by local councils in areas not already covered by statutory complaint processes. In response, the Customer Experience Board has developed a new Complaints Policy for East Sussex County Council in order to adhere to the Code. The new Complaints Policy was adopted by the Governance Committee at its meeting on 21 October and is presented as Appendix 5.

4.2. The new policy will be implemented on 1 January 2026 for the Council. The LGSCO plans to apply the Code to its processes from 1 April 2026.

4.3. The new Code recommends a role of ‘Member Responsible for Complaints’ (the Member). This role has responsibility for complaints and to support a positive complaint handling culture in the Council. This role can be carried out by an individual or committee depending on the governance arrangements already in place. The ‘Member’ should receive information on complaints that provides insight on the Council’s complaint handling performance.

4.4. It has been included in the new Complaints Policy (Appendix 5), that the Committee be the ‘Member Responsible for Complaints’, as this reflects the governance arrangements already in place, with the Committee already receiving the Customer Experience Annual Report, which provides insight on the Council’s complaint handling performance.

4.5. As outlined in the Code, the ‘Member’ should receive updates on volume, categories, and outcomes of complaints, alongside complaint handling performance; and also reviews of issues and trends arising from complaint handling. These should be provided in an annual complaints performance and service improvement report, which for the Council, is already provided in this Customer Experience Annual Report.

4.6. The Committee recommends the County Council to:

- ❖ agree the amendment to the Terms of Reference of the Governance Committee to include that the Governance Committee undertakes the role of “Member Responsible for Complaints” in order to comply with the LGSCO Code as set out in Appendix 6 to this report; and
- ❖ agree that the constitution be amended accordingly.

5. Appointment of Returning Officer for Mayoral Combined County Authority (MCCA) election

5.1. The paper recommends that the Chief Executive of Brighton & Hove City Council (BHCC) be formally appointed as the Combined County Authority Returning Officer (CCARO) for the Mayoral Combined County Authority (MCCA) elections scheduled for May 2026. It sets out the legislative background, governance context, and rationale for the proposed appointment.

5.2. The MCCA is being established as part of the Government’s devolution agenda, with the Sussex region comprising East Sussex County Council (ESCC), West Sussex County Council (WSCC), and BHCC working collaboratively to form the new authority. The MCCA will assume strategic responsibilities across transport, housing, economic development, and public service reform.

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5.3. Legislation to formally create the MCCA is expected to be passed in early 2026, with the first mayoral election scheduled for May 2026.

5.4. The Combined Authorities (Mayoral Elections) Order 2017 (the Order) require that an officer be appointed as the CCARO responsible for the effectual conduct of the election in the manner provided by the Order.

5.5. Under the Order all expenditure properly incurred by a Returning Officer prior to the formal establishment of the CCA must be paid by the constituent councils. Once the CCA is established, it must reimburse those councils.

5.6. The CCARO is personally responsible for a number of specific aspects of the combined county authority mayoral election including:

- giving notice of the election
- the nomination procedures
- encouraging participation
- ensuring that candidates and their agents comply with the requirements as to the content of candidate election addresses, and with the procedures for submitting them
- producing and distributing the booklet containing the candidates' election addresses to every voter
- the collation of local totals and calculation of the result
- the declaration of the result

5.7. Provisions in the 2017 order set out that the CCARO must be an officer of a constituent council or the CCA and that the appointment of the CCARO must be made by the constituent councils or the CCA.

5.8. The Election Regulations permit the appointment by the Constituent Councils of a CCARO for the mayoral election ahead of the establishment of a combined county authority. It is proposed that the Chief Executive of BHCC be appointed to this role.

5.9. As the MCCA will not yet be legally constituted at the time the Returning Officer must be appointed, the responsibility falls to the constituent authorities.

5.10. There is a requirement for the Constituent Authorities to appoint a CCARO and it is recommended that this be the Chief Executive of BHCC. BHCC has already taken a lead role in coordinating the preparations for the mayoral election, including oversight of the Election Spend & Reimbursement Policy and logistical planning. The BHCC electoral services team has delivered the Area Returning Officer responsibilities at the last two Sussex Police and Crime Commissioner elections, has extensive experience managing large-scale elections and is therefore well-equipped to handle the complexities of a regional mayoral election.

5.11. The Committee recommends the County Council to:

- ❖ agree to appoint the Chief Executive of Brighton and Hove City Council as the Returning Officer for the Mayoral election for the Sussex and Brighton Combined County Authority.

6. Members' Allowance Scheme

6.1. East Sussex County Council operates a Members' Allowance Scheme, which outlines the types of remuneration and support available to elected Members for their responsibilities and duties. The scheme includes payments for basic allowances, special responsibilities, and covers travel, subsistence, and other expenses related to official Council business. These allowances are set to compensate Members for time spent and obligations carried out during their roles as representatives of the County Council.

6.2. In March 2013, the Council agreed that the Scheme would be reviewed every four years. The most recent full review took place in March 2022, and so the next review is scheduled for 2026.

6.3. It is a requirement under the Regulations that the Council appoints an Independent Remuneration Panel to review the Member Scheme of Allowances and make recommendations to the Council on Councillor allowances.

6.4. Set out in the Scheme is a mechanism which allows for annual adjustments to the scheme in between the full scheme reviews. For the past four years, annual increases in basic and special responsibility allowances have been indexed to the percentage increase in the salaries of managers on locally negotiated pay. This ensures that annual adjustments reflect the pay awards issued to LMG managers. It is a legal requirement that this adjustment mechanism is reviewed every four years.

6.5. As Members will be aware, the Council has submitted a proposal for Local Government Reorganisation (LGR) to Government, the outcome of which is not known at this stage, and we expect the Government to make a decision in March 2026. If approved, LGR will result in a unitary council and will lead to potentially significant changes to the roles and functions of Members, which it is anticipated will impact on the Members Scheme of Allowances.

6.6. The process for conducting a full review of the Member Scheme of Allowances for implementation in April 2026 is detailed and would require starting in December 2025. The review would also involve incurring cost.

6.7. Bearing in mind the current proposal for LGR, which if agreed would have a potentially significant impact on the role of members and would include a review of members allowances as part of the process, it is proposed that the review currently scheduled for 2026 be postponed with view to the process starting in 2027 ahead of implementation for vesting day in 2028. Should however Government decided not to

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proceed with LGR then a review will be carried out and reported to Council in the autumn 2026.

6.8. In the meantime the annual adjustment mechanism will be reviewed in line with the legal requirements.

6.9. The Committee recommends the County Council to:

- ❖ agree to postpone the full review of the Member Scheme of Allowances scheduled for 2026, with a view to the process commencing in 2027 ahead of the implementation for the Vesting Day in 2028; and
- ❖ agree that should Government not proceed with Local Government Reorganisation (LGR), then a review be carried out and reported to Council in the autumn of 2026.

7. Amendment to the Constitution – Speaking to the Planning Committee

7.1. The Constitution includes procedure and guidance for Speaking to the Planning Committee within Part 4 (Rules of Procedure).

7.2. The Constitution is kept under review, and the most recent review has identified a need to make changes in relation to which members can speak at Planning Committee as a Local Member.

7.3. Planning Committee considers planning applications and Traffic Regulation Orders which fall within specific electoral divisions. Local County Councillors for the specific electoral divisions are invited to speak at meetings of the Planning Committee to raise points on behalf of their electoral division, often putting forward views of the residents and businesses within the division.

7.4. Where the local County Councillor is unable to attend a meeting of the Planning Committee where an item within their division is being considered, they can submit their views to the Planning Committee in writing ahead of the meeting however there is not express provision to enable them to nominate an alternative County Councillor to speak at Planning Committee to represent the views of their division in their place.

7.5. It is therefore proposed that the procedure and guidance for Speaking at Planning Committee is amended to expressly include provision in relation to this. So that in the event that a local County Councillor cannot attend, for reasons which may include, but are not limited to, illness or where a local County Councillor considers they have a prejudicial interest, the Local County Councillor (or Group Leader in their absence) can nominate an alternative County Councillor to speak at the Planning Committee meeting in their place, thereby ensuring that the views of those residents and businesses in division are heard.

7.6. Proposed amendments to the Constitution are set out at Appendix 7 of this report.

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7.7. This recommended amendment to the Constitution will allow for elected Local Member representation at Planning Committee meetings in the event that the Local Member cannot attend; and will help ensure that the views of residents and businesses are heard. The review also identified some presentational issues which do not change the rules but will ensure that the guidance is set out in a more accessible format.

7.8. The Committee recommends the County Council to:

- ❖ agree the proposed amendments to the Constitution as set out in Appendix 7 of the report;
- ❖ agree that the reason for a member standing in for the local member should be recorded in the official minutes of the meeting;
- ❖ agree that a monitoring report setting out the use of the provision be brought back to the Governance Committee in six months' time for review; and
- ❖ agree that the constitution be amended accordingly;