

Divisions Affected - All

COUNCIL

13 September 2022

AMENDMENTS TO THE COUNCIL'S CONSTITUTION AND ITS PRESENTATION (INCLUDING RECOMMENDATIONS FROM THE CONSTITUTION REVIEW WORKING GROUP)

Report by Director of Law and Governance

RECOMMENDATION

1. Council is RECOMMENDED to approve:

- (a) The changes to the presentation of the Constitution on the Council's website referred to in paragraphs 4 to 8 of the report
- (b) The video and diagram referred to in paragraphs 9 to 11 of the report for inclusion on the Council's website
- (c) The proposals for the incorporation of all of the current Articles into the main body of the Constitution referred to in paragraphs 12 to 14 of the report
- (d) The proposals for amendment to the Protocol on Members' Rights and Responsibilities, the Protocol on Member/Officer Relations, the Council Procedure Rules and the Contract Procedure Rules in the Constitution referred to in paragraphs 15 to 23 of the report
- (e) The proposed new Part 2 of the Constitution relating to the Fire and Rescue Service referred to in paragraphs 26 to 28 of the report; and
- (f) A delegation to the Director of Law and Governance to make textual amendments to the Constitution to address any inconsistencies or correct any cross-referencing errors arising from or as a consequence of the amendments, along with updating job and group titles if those referred to in the Constitution are obsolete (insofar as the Director of Law and Governance does not already have such a delegation)

Council is also recommended:

- (g) To note that the Code of Conduct it adopted on 5 April 2022 and the Current Scheme of Allowances referred to in paragraphs 24 to 25 below will be incorporated into the Constitution.

Executive Summary

2. The Cross Party Constitution Working Group ("the CWG") held nine meetings between November 2021 and July 2022 and its members were Cllr Susanna

Pressel (Chair from November 2021 to May 2022) and Cllr Brad Baines (Chair from June to July 2022), Cllr Roz Smith (Deputy Chair) and Cllrs Mark Lygo, David Bartholomew, Robin Bennett, Yvonne Constance, Ted Fenton, Stefan Gawrysiak and Bethia Thomas (with substitutions when members were unable to attend meetings). It was tasked with considering ways of amending the Constitution and then making recommendations. The recommendations contained in this report arise from its work and were approved by the Audit and Governance Committee at its meeting on 20 July 2022.

3. The Annexes to this report are voluminous (reflecting the complexity of the textual amendment work carried out) and, at the Audit and Governance Committee meeting, Cllr Middleton indicated that assistance with reviewing the Annexes would have been helpful to him. The Contact Officer, Richard Hodby, whose details are below, is willing to review the Annexes personally with members in advance of the meeting if they contact him.

Background

Website

4. Currently, the Constitution is not contained within the Council's website. Rather, the website provides links that enable users to download either a complete pdf copy of the Constitution or pdf copies of individual sections of it.
5. The pdfs are not consistent in presentation with the rest of the Council's website (not using the same fonts or colours) and they are slow to load, difficult to view on mobile devices, and difficult for the software used by those with visual impairment to manipulate.
6. Fully integrating the relevant documents into the Council's website would improve presentation, speed up access, and also have environmental benefits, as computers use energy in loading up pdfs. It would also ensure that the Council was more likely to be compliant with its obligations to make web content accessible (particularly to those with visual impairment) under the Public Sector Bodies (Websites and Mobile Applications) (No 2) Accessibility Regulations 2018.
7. The CWG reviewed the presentation of constitutions on a number of different local authority websites and was impressed with the integrated presentation of the constitution on the Cumbria County Council website. The Council's IT engineers have tried to replicate this in the Council's house style and their initial "mock up" can be viewed by following this link (note that it is necessary to accept the "warnings" to view it):
<https://www.cmsbox.theocn.org/council/about-your-council/government-oxfordshire/oxfordshire-county-council/corporate-governance/council-constitution-0>
8. The CWG proposes that the Council's IT engineers should be instructed to complete their work and make it "live" on the Council's website, whilst also retaining the option of downloading the entire Constitution as a single pdf document, as some users will find that helpful.
9. The CWG believes that a video and a diagram could be useful "hooks" on the website to generate public interest in the Constitution.
10. The CWG approved the text at Annex 1, which provides an introduction to the Constitution in simple terms and could be read over a video prepared by the

- Council's videographer. The CWG also approved the diagram at Annex 2, which sets out information from the Constitution about decision-making in visual form.
11. The CWG proposes that the video (when ready) and diagram should be incorporated into the Constitution section of the Council's website.

Incorporation of Articles into the Main Body of the Constitution

12. The CWG believes that the separation of the Constitution into Articles and a main body of text (like a company's memorandum and articles) is confusing and leads to unnecessary repetition. The CWG noted that modern constitutions (eg as used by Birmingham City Council and Milton Keynes Council) do not contain Articles.
13. The CWG approved the incorporation of the Articles into the main body of the Constitution in the way outlined in Annex 3. The Annex begins with a schedule summarising the changes made and is followed by text incorporating the changes.
14. Text from the Articles was reviewed before being incorporated into the main body of the Constitution and text that was redundant or repetitious was removed. Also, text that was inconsistent with a modern style was revised (eg where the word "Chairman" was used, it was replaced with "Chair", as approved by Council on 14 September 2021).

Part 9.2 (Protocol on Members' Rights and Responsibilities) and Part 9.6 (Protocol on Member/Officer relations)

15. A report was presented to the CWG on the problems with the Constitution identified in discussions with the Council's political groups. It was suggested the Constitution was unwieldy, repetitious and old-fashioned.
16. The CWG approved amendments to Parts 9.2 and 9.6 to address these concerns.
17. Annex 4 begins with a schedule showing the amendments made to both parts, followed by a "clean" version of Part 9.2 (with all amendments incorporated), a version of Part 9.2 showing the changes tracked in, a "clean" version of Part 9.6 and finally a version of Part 9.6 with all the changes tracked in.
18. The schedule shows how amendments were made to remove redundant text, duplications and unnecessary cross-referencing; update style (eg removing "his/her" references); and add clarification (for example, about the right of recourse to the Monitoring Officer and the use of Social Media).

Part 3.1 (Council Procedure Rules)

19. The CWG proposed that clause 13.5 of the Council Procedure Rules should be amended to require that amendments to Motions on Notice should be submitted by 9am at least two working days before the relevant Council meeting (the current Rules allow them to be submitted one working day before).
20. The purpose of the change is to ensure that officers have sufficient time to deal with the practical and administrative issues raised by such amendments and provide papers to Councillors in a timely fashion ahead of the Council meeting.
21. A tracked change version of Part 3.1 incorporating the amendment is found at Annex 5.

Part 8.3 (Contract Procedure Rules)

22. The CWG agreed, following recommendations from officers, that the Contract Procedure Rules in respect of supply of goods and services should be updated. This is to reflect changes in legislation (particularly post-Brexit), changes in internal procedures (such as changes in authorisation thresholds) and changes in officer job titles.
23. Annex 6 begins with a schedule showing the amendments made to Part 8.3, followed by a “clean” version (with all amendments incorporated) and ends with a version showing the changes tracked in.

Parts 9.1 (Members’ Code of Conduct) and Part 10.1 (Members’ Allowances Scheme)

24. At the Full Council meeting on 2 November 2021 a new allowances scheme was approved (to take effect from 1 April 2022) and at the Full Council meeting on 5 April 2022 a new Members’ Code of Conduct was approved (to take effect from 1 May 2022).
25. These will replace the existing Parts 9.1 and 10.1 in the Constitution.

Part 2 (Fire and Rescue Service)

26. Incorporating the Articles into the main body of the Constitution means that all content has been removed from Part 2 of the Constitution. Consequently, either the Parts need renumbering or new content needs to be included in Part 2.
27. It is proposed that information about the Fire and Rescue Service should be included in Part 2, as the Constitution currently has limited information about the Service. The proposed new Part 2 contained in Annex 7 defines the responsibilities of the Fire and Rescue Service, the Chief Fire Officer and the Cabinet Members associated with the Service and explains how the Service is held to account.
28. The current Chief Fire Officer is responsible for the Channel Panel and the opportunity has also been taken to include reference to it in the Constitution.

Financial Implications

29. The recommendations in this report have no direct financial implications for the Council.

Comments checked by:

Lorna Baxter, Director of Finance lorna.baxter@oxfordshire.gov.uk

Legal Implications

30. The recommendations in this report are consistent with the Council's duty under Section 9P of the Local Government Act 2000 to have a Constitution and keep it up to date.

Comments checked by:

Richard Hodby, Solicitor richard.hodby@oxfordshire.gov.uk

Staff Implications

31. There are no direct staff implications arising from this report.

Equality & Inclusion Implications

32. Attempts have been made to use inclusive language in the proposed amendments and the new web presentation for the Constitution should make information more easily available to those with visual impairment.

Sustainability Implications

33. Loading up pdfs is energy inefficient and so fully integrating the Constitution onto the Council's website (rather than relying on PDF links) should save energy.

Risk Management

34. There are no direct risk management implications arising from this report.

ANITA BRADLEY
Director of Law and Governance

Annexes:

- (1) Video narrative
- (2) Diagram
- (3) Incorporation of Articles into the body of the Constitution
- (4) Amendments to Part 9.2 (Protocol on Members' Rights and Responsibilities) and Part 9.6 (Protocol on Member/Officer relations)
- (5) Amendments to Part 3.1 (Council Procedure Rules)
- (6) Amendments to Part 8.3 (Contract Procedure Rules)
- (7) Proposed new Part 2 (Fire and Rescue Service)

Background papers: Minutes of the nine meetings of the CWG and supporting presentations along with the minutes of the Audit and Governance Committee meeting on 20 July 2022

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1 SEPTEMBER 2022