

COUNCIL – 5 APRIL 2016

CONSTITUTION REVIEW

Report by the Chief Legal Officer and Monitoring Officer

Introduction

1. Under the Constitution, the Monitoring Officer is required to monitor and review the operation of the Constitution to ensure that its aims, principles and requirements are given full effect. This includes making recommendations to Council on any necessary amendments. The Monitoring Officer is authorised to make any changes to the Constitution which are required to:
 - Comply with the law;
 - Give effect to the decisions of Council (or Cabinet, Committees etc.);
 - Correct errors and otherwise for accuracy or rectification.
2. Other changes will only be made by Full Council, following a recommendation of the Monitoring Officer.
3. This report seeks Council's approval to a potential amendment to a Council Procedure Rule. Full Council gave preliminary consideration to this at its meeting in December 2016 and asked that the Audit & Governance Committee give consideration to the proposal. The Committee did so at its meeting in January 2016 and expressed itself to be fully supportive of the change.

Amendment for clarity - treatment of motions

4. The Council Procedure Rules (Part 3.1 of the Constitution) govern how motions proposed at Full Council shall be handled. Rule 13.5.1 (ii)(a) sets out that in the case of a non-executive function, Full Council will (except at the February or budget-setting meeting) "debate and determine the motion" unless the motion if carried would lead to certain outcomes. One of these is that any such approved motion would "involve additional expenditure". It is considered that this is too restrictive as in one sense, any motion that asks envisages action being undertaken as a result will involve some additional expenditure and in theory could preclude many proposed motions.
5. It is therefore proposed that the wording be amended to say "additional **significant** expenditure". However, to do so immediately begs the question as to what 'significant' means. Following consultation with group leaders, it is suggested that a reasonable level for 'significant' would be £10,000. This would provide sufficient flexibility for motions below that threshold not to be 'ruled out' if challenged on the basis of current wording.

6. Full Council is therefore asked to approve the change in definition and to the financial level being £10,000.

Legal and procedural implications

7. There are no legal implications. The procedural/constitutional implications are outlined in the report.

RECOMMENDATION

8. **Council is RECOMMENDED to agree the proposed change to the Council Procedure Rules outlined at paragraph 5 of this report.**

NICK GRAHAM

Chief Legal Officer and Monitoring Officer

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Background Papers: None

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