

COUNCIL - 27 MARCH 2018

CONSTITUTION REVIEW

Report by the Director of Law and Governance 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 sets out one change for the Council to approve; and also sundry amendments to note which have already been made by the Monitoring Officer under his delegated powers to give effect to previous Council decisions.
4. The issues are:
 - A legal update of the Constitution to clarify the process on the re-election of a leader of the council, to comply with the Local Government Act 2000, *for endorsement*
 - A summary of changes made by the Monitoring Officer in year for the reasons in paragraph 1 above, *for noting*
5. Council should note that the *Constitution Review* considered under this report is a routine annual update and is entirely separate to the *Governance Review* which is currently taking place. The Governance Review may itself lead to constitutional changes in the coming months but that would form part of a separate report to Council. This is explained further at paragraph 10 below.

Potential change – Council approval needed

Re-election of a leader of the Council

6. The Constitution (Part 2, Article 6) contains provisions for the election, resignation and removal of any person appointed as the leader of the Council. This complies with the Local Government Act 2000 Section 9I and 9IA. To make the provisions fully compliant with the Act (as amended by the Localism

Act 2011), there needs to be a more specific reference to the process for *re-electing* a leader where a vacancy in that office has occurred. Article 6 sets out the circumstances (listed as “3 (a) to (d)” in the 2000 Act) in which a vacancy would occur (i.e. (a) resignation, (b) ceasing to be a councillor, (c) suspension as a councillor, and (d) removal from office). It is suggested that the following additional wording, to comply with Section 9I of the Act, be inserted in paragraph 3 of Article 6 immediately after the circumstances in which a vacancy occurs:

“In the event that the circumstances in (a) to (d) above occur to create a vacancy in the office of leader of the council, an election to fill the vacancy will be taken at the next ordinary meeting of the Council or at an extraordinary meeting of the Council. In the case of (d) [removal from office by resolution of the Council] the election to fill the vacancy should occur, where possible, at the same meeting at which the resolution removing the leader is passed. The newly elected leader will remain in office for the remaining term of the Council subject to paragraphs 3(a) to (d).”

7. The Audit and Governance Committee has already considered this change and is supportive of it; consequently, it has formally recommended the Council to adopt it.

Consequential amendments made in year

8. The Annex to this report summarises the changes that have been made since the last Constitution Review that were consequential on decisions of the Council or were otherwise required under the Monitoring Officer’s delegated powers to keep the Constitution up to date.
9. Council is asked to note these changes.

Governance Review

10. Council will recall that in the summer of 2017, it was agreed that a governance review be undertaken into potential changes to the Council’s political decision-making arrangements. This review began in the autumn and is likely to continue throughout the spring and summer of 2018 led by a cross-party Governance Review Task Group. For clarity, the current constitution review in this report is the normal annual review of current constitutional matters; the matters in this report do not prejudge or otherwise bind the Governance Review. Any potential constitutional changes arising from the Governance Review will come to Council separately, with input from the Audit & Governance Committee.
11. The Task Group is still considering a range of evidence and wishes to take the necessary time to do so in order to arrive at fully considered recommendations. As such, it has not yet expressed any preferences nor made any decisions or recommendations and has not set any timeframe for doing so.

Legal and procedural implications

12. The legal requirement for the change suggested in paragraph 6 above is contained within the Local Government Act 2000 Section 91(a). The procedural authority for the changes suggested in paragraph 7 are contained within the Council's Constitution (Part 2, Article 1, paragraph 5.2).

RECOMMENDATION

13. **Council is RECOMMENDED to:**

- (a) endorse the proposed change to the Part 2, Article 6 ('The Cabinet') set out in paragraph 6 of this report; and**
- (b) note the changes made to the Constitution by the Monitoring Officer under delegated powers since the last annual Constitution Review report to Council (as outlined in Annex 1).**

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March 2018

Constitution Review**Amendments made during the year under delegated authority****Consequential amendments during since March 2017****Changes consequent on the Annual Meeting (16 May 2017):**

Part 2, Article 6: Cabinet appointments

Part 2, Article 13: Officers (senior managers – consequent on adoption of the Scheme of Delegation)

Part 5.1: Membership of committees and sub-committees

Part 7.2: Scheme of Delegation

Changes to sub-delegation made by Remuneration Committee (28 September 2017):

Part 2, Article 11: Pension Benefits Sub-Committee – sub-delegation amended to reflect that the Sub-Committee will determine early retirement cases only where the Council has discretion e.g. ill health retirement.

Part 2, Article 11: addition of a new paragraph 6 to reflect that the Remuneration Committee delegates consideration and approval of all other early retirement cases (save those delegated to Pension Benefits Sub Committee) to council directors with concurrence from the Strategic HR Manager.

Part 2, Article 11: addition of a new paragraph 7 to reflect that the Remuneration Committee wishes to receive a report each quarter on all redundancies and early retirements including associated costs.

Change consequent on 11 July 2017 Full Council (Minute 146/17)***Part 3.1: Council Procedure Rules***

Addition of new paragraph to the Council Procedure Rules to reflect an arrangement of reciprocity for City/District and County Councillors in addressing meetings of their Councils. As follows:

New Section 10 New Part 4

- 10.4 (i) City and District Councillors be given their own speaking slot at meetings of the County Council's Planning & Regulation Committee at the discretion of the Chairman of the Committee and normally only where County Councillors enjoyed a similar privilege at District and City planning meetings.
- (ii) Where that reciprocal arrangement was not in place then District and City Councillors would retain the right to apply alongside other members of the public.