

AUDIT AND GOVERNANCE COMMITTEE

15 SEPTEMBER 2021

Constitution Review

Report by Monitoring Officer

RECOMMENDATION

1. **The Audit & Governance Committee is RECOMMENDED to**
 - a) **Consider the results of the Member engagement exercise on the Constitution set out in Appendix 1**
 - b) **To endorse the process for the 2021 review of the Constitution**
 - c) **To comment on the proposed Project Plan for the review**
 - d) **To agree to the establishment of an informal cross-party Constitution Review Working Group comprising 3 Liberal Democrat-Green Alliance members, 3 Labour members, 2 Conservative members and 1 Independent Member**

EXECUTIVE SUMMARY

2. The Council has a duty to keep its constitution under review. This includes all relevant codes and protocols, and the procedure rules for committees. As well as corrections, updates, amendments, and developments to the constitution.
3. The constitution forms a key part of the Council's governance framework, setting rules, principles, and procedures to enable the Council to take decisions and do its work effectively.
4. This report proposes that the Monitoring Officer undertakes a review of the constitution to ensure that it is fit for purpose, supported by a Councillor Constitution Working Group.
5. Under provisions contained within the Local Government Act 2000 (and as subsequently amended) the Council is required to prepare and maintain a Constitution. The Constitution must contain:
 - The standing orders and rules of procedure of the Council.
 - The Members Code of Conduct
 - Such other information as the Secretary of State may direct
 - Other information (if any) as the Council considers appropriate
6. Secretaries of State have produced since 2000 more than 100 different matters that are required to be included within the Constitution including members allowance schemes and joint working arrangements with other local authorities.
7. The Constitution must be available for inspection by the public at all reasonable hours and a copy can be requested upon payment of a reasonable fee.

REVIEW OF THE CONSTITUTION

8. At its meeting on 3 March 2021 the Committee endorsed a proposal from the Monitoring Officer to bring back proposals for a full review of the structure and content of the Constitution following the May elections, this was subsequently further endorsed by Council on the 23 March 2021.
9. In July the Committee further agreed that engagement should be undertaken with Councillors to seek their views on the current Constitution and potential scope for the review. As a result, a Member Survey was emailed out to all Councillors on the 20 August allowing a 2 week period for completion and submission.

Councillor Engagement Exercise

10. The results of the Member engagement exercise will be collated and forwarded to the Committee prior to the meeting as Appendix 1.

Objectives of the Review

11. The Constitution should be seen as a “living” document— i.e. not something which is set in stone for all time, but something which is kept under regular review and which the Council is willing to adjust or clarify in the light of new or changing circumstances.
12. The Constitution should be “owned” by the whole Council—i.e. not something which is under the control of the largest group or any other part of the Council but something in which the whole Council has a genuine interest.
13. Having a Constitution which is reviewed and updated regularly serves a valuable and relevant purpose by striking a fair balance between the interests of the various groups within the Council—e.g., between the largest political group and opposition groups, between all Councillors and between Councillors and officers.
14. Most importantly the Constitution needs to enable the Council to operate effectively. It must deliver:
 - good governance behaviours such as transparency, accountability, leadership and participation
 - effective officer/member relationships
 - clear and effective decision-making with an effective scheme of delegations that utilises officer expertise
 - clarity and consistency
15. It is proposed that the Monitoring Officer undertakes a complete review of the Constitution with an aim of producing a modern, concise where appropriate and detailed where needed document supported by the following objectives:
 - Produce a Constitution that is "Fit for Purpose" and "Understandable" by Councillors, Officers, Partners and the public

- Develop a Constitution that is "locally driven" and should reflect the values and culture of Oxfordshire County Council such as openness and transparency
 - Review the terms of reference of existing Committees and ensure that their role is clear, effective and contributes positively to local democratic principles
 - Review scheme of delegations and where appropriate provide additional delegation to aid effective decision-making within the policy & budget framework set by elected members
 - Seek to remove any ambiguity and make roles of Committees explicit avoiding any duplication (for example clear Cabinet Member remits and delegations and clear scrutiny arrangements)
 - Deliver a Constitution that is modern, reflects best practice and utilises language and style that will make it more accessible
16. Attached at Annex A is a Draft Project Plan for consideration in order to aid the Committee's deliberations. This plan takes in to account the objectives outlined above and may need to be amended to consider the results of the Member Engagement Exercise.

Constitution Working Group

17. It is proposed that the constitution review will be assisted by a Constitution Working Group of Councillors, who will consider options and proposals to advise the review and the development of the constitution. It is proposed that membership of the working group covers the full spectrum of politics within the Council and therefore consist of:
- 3 Liberal Democrat - Green Alliance
 - 3 Labour
 - 2 Conservative
 - 1 Independent Member
18. Group Leaders will be asked to confirm their appointments to the working group. The membership is not limited to Audit and Governance Committee membership and can come from across the Council. As representatives of their Groups, it will be important that working group members actively engage with councillors in their Group to consider any proposed changes and present the agreed views and comments of their Group back to the Working Group, not just their own perspective.
19. The Committee is asked to agree a term of reference for the working group, in order to aid deliberations a draft term of reference is attached at Annex B
20. A review of the Constitution provides an opportunity to ensure that the Council is governed by a modern and dynamic document, to make the content more accessible to the public and usable for both Councillors and Officers, and ensure that it is fit-for purpose, reflecting the core values of Oxfordshire County Council.
21. The operating principles for the working group will be:

- a) Receive the proposals of, and provide thoughts, feedback and guidance on areas for inclusion within the Constitution (or on the authority's constitutional arrangements) to assist the Monitoring Officer in developing recommendations for Full Council consideration and approval.
- b) Develop design principles to guide the constitution review process

Financial Implications

22. There are no financial implications directly relating to, or arising from, the recommendation in this report.

Legal Implications

23. The Council has a legal duty to maintain a Constitution and to keep it up to date. This report fulfils the duty to keep the Constitution up to date and makes proposals for maintaining it into the future.

Equality & Inclusion Implications

24. The recommendations in this report do not themselves raise equality implications. However, keeping the Constitution up to date is important to its accessibility. The recommendation for bringing forward proposals for reviewing the Constitution involves a recognition that any such proposals for review would need to ensure a diversity of views and an emphasis on achieving a Constitution that engages everyone in our communities.

ANITA BRADLEY

Director of Law and Governance & Monitoring Officer

Annex:

- Annex A – Draft Constitution Review Project Plan
- Annex B – Draft Constitution Working Group Terms of Reference

Background papers: Nil

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