

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: **23 September 2014**

Subject: Constitution Review – Initial Scoping Report

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Recommendations:

- (1) To consider how a review of the constitution should undertaken**
- (2) To agree priority to reviewing the various elements with a view to completion by March 2016;**
- (3) To consider specific reviews of issues raised to the proper officer set out below:**
 - (i) Speaking and arrangements at Planning committees;**
 - (ii) Terms of reference for DDCC and Planning subcommittees**
 - (iii) Minority references;**
 - (iv) Thresholds for leases and licenses within delegations and contract standing orders;**
 - (v) Clarity of application of the procedure rules in different settings;**
 - (vi) Use of the Chairman’s Casting vote;**
- (4) To discuss further areas that members may wish to review individually;**
- (5) To recommend an appropriate work programme to the Overview and Scrutiny Committee.**

Report:

1. (Assistant Director Governance and Performance Management) The requirement for a Constitution stems from the passing of the Local Government Act 2000. This act also gave rise to the options for governance for Local Authorities which saw the establishment of Leader and Cabinet arrangements. Section 38 of the Act requires the Council to have and maintain a constitution that contains:

- (i) Information required by the Secretary of State;**
- (ii) The authority’s Standing Orders;**
- (iii) The code of Conduct; and**
- (iv) Such other information that the authority consider appropriate.**

In 2000 a team of officers brought together elements from previous handbooks and rules and put together a new constitution based upon a government model.

2. Since that time, and to reflect changes required by circumstance, the Constitution has grown to over 650 pages in length. No overriding review has been undertaken since 2000. The agreed Business Plan for the Governance Directorate includes the aim of completing a review of the Constitution by March 2016. This, however is not a hard and fast deadline.

3. This Panel has, over recent years, undertaken a number of reviews of sections of the Constitution. Quite separately, reviews have been undertaken by other bodies for example the Overview and Scrutiny Review Panel (Overview and Scrutiny Rules and Procedures) or are normally the responsibility of other Committees (Code of Conduct for example). This review does not seek to undermine or re-rehearse work done recently, more to seek to ensure consistency of wording and rules across the piece and rationalise procedures to avoid duplication or repetition.

4. Some sections have never been reviewed. Some have not kept pace with changes made elsewhere in the document or within the Council's own work processes.

5. Work to undertake the review would seem to fall into the following categories:

- (i) Areas where no review is necessary (where reviews have been recently undertaken or where members decide no further work is necessary);
- (ii) Areas that require a simple review of the wording;
- (iii) Areas that require rationalisation of either wording or where they sit within the document;
- (iv) Areas where change is required or desired;
- (v) Areas where there has been request to review individually; and
- (vi) Areas that could otherwise be published.

6. Additionally members themselves may wish particular section of the document to be reviewed. As a start specific areas that have been raised are:

- (i) Speaking and arrangements at Planning committees

Issues have been raised around speaking arrangements, chairman's discretions and associated officer procedures which have been the subject of complaint.

- (ii) Minority references

The application of referrals to DDCC has been subject of member query recently.

- (iii) Terms of reference for DDCC and Planning subcommittees

Complaints have been received about the application of referrals and how applications are called into DDCC.

- (iv) Thresholds for leases and licenses within delegations and contract standing orders;

Specific request has been received from Estates colleagues about the thresholds of leases and licences where these appear to restrict normal business leases being completed at officer level.

(v) Clarity of application of the procedure rules in different settings

There are various sets of procedure rules which apply in different committees. These could be simplified so that their application is more easily understood.

(vi) Use of the Chairman's Casting vote

The use of the second or casting vote is raised from time to time.

7. Items (i) and (iii) are to be considered by the Planning Scrutiny Panel this year. Members are asked to bring forward additional items for closer scrutiny.

8. Officers have undertaken work to identify recent reviews which is attached at Appendix 1 to this report. This forms a checklist which members may wish to work through to come up with a work programme. From this list members are asked to identify areas of priority for review. For each area recent reviews have been flagged up together with a commentary by officers.

9. It is suggested that, as a start, members begin the process this year by:

(i) Reviewing the Articles of the Constitution – These underpin the remainder of the document in any event;

(ii) Undertaking or overseeing the review of those areas which have been raised to the officers or are desirable by members – i.e. our priorities;

(iii) Looking at the structure of the document and to include or rule out sections that might need to be part of the forward programme.

10. As to the process to be adopted, it is suggested that members have before them the sections of the Constitution they are reviewing at that meeting and a short commentary of suggested changes made by officers. Once an area of work has been concluded consultation with other parties can take place through the Members Bulletin or via specific targeted consultation.

11. Based upon Members wishes, officers will compile a work programme based on the existing programme of Panel meeting for approval by the main Overview and Scrutiny Committee. Once the full programme is completed it is intended to reaffirm the whole document at full Council. Specific items may take the route to full Council in advance of that time if operational matters require it.