

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 27 November 2014

Subject: Constitution Review – The Articles of the Constitution

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Recommendations:

- (1) To consider proposed changes and commentary on a review of the Articles of the Council's constitution; and**
- (2) To agree the basis of amended articles for consultation at the appropriate point in the review process.**

Report:

1. (Assistant Director Governance and Performance Management) As agreed at the last meeting the first element of the Constitution review is brought to members for consideration. Officers have made suggested amendments for members to consider. A short commentary is provided below on each Article.

Article 1 – The Constitution

Suggested amendments commentary:

- Much of this article is pulled straight from the government model.
- Could it be replaced/amended with an easy read summary of the Constitution?

Article 2 – Members of the Council

Suggested amendments commentary:

- Eligibility altered to reflect base legislation.
- Other minor alterations and flagging for cross checking references at end of process

Article 3 – Citizens and the Council

Suggested amendments commentary:

- Clarification of which meetings of the Executive the public can attend;
- Clarifying route of complaints about members;
- Linking citizens responsibilities to our policy (set elsewhere).
- Could this be deleted and form part of an amended article 1?

Article 4 – The Full Council

Suggested amendments commentary:

- Council tax base now delegated decision to Director of Finance (Council decision - Council Minute 127 – 23.4.13 – Delegation EX 69 refers)
- Policy Framework Plans – BVPP taken out, Corporate Plan added, former cultural strategy renamed, LA21 removed.
- Could the policy framework form part of the ToR of Council and set out in the responsibility section?
- Appointments and ToR of Committees – tidying up exercise. Subject to the previous comment
- Section (p) – this is an example of duplication that is reproduced in Part 4
- Could the Article on Chairing the Council be amalgamated into this article?

Article 5 – Chairing the Council

Suggested amendments commentary:

- Admission of Business (e) (i) – tidying up to reflect procedure for urgent business.
- Use of casting vote – part of the casting vote is in the Council procedure rules except section (b) and (c) – Is this still relevant? Should the Chairman of Council not be free to determine the manner of his second vote? Do members want any alternative? Casting vote is not a given right in common law.
- Civic Ceremonial Role section 5.06 (d) – deletion as this protocol no longer exists
- Otherwise this article has been reviewed recently and is thought not to require any radical overhaul.

Article 6 – Overview and Scrutiny

Suggested amendments commentary:

- Section 6.02 – this comes from the original model and adds nothing to the terms of reference set out within the OS rules. The Committee in any event are not constrained to the scope set out. It is suggested that the section is deleted.
- Could the sections that reflect non rule matters be pulled from the Overview and Scrutiny Rules section – eg ToR, Panels and makeup etc. and put together into this article?
- Rules that apply to OS would then be pulled into a general rules section?

Article 7 – The Executive

Suggested amendments commentary:

- Could the non-rule sections of the Executive procedure rules be amalgamated into this section including any terms of reference etc?
- This Article should include the Terms of Reference of the Cabinet and the Cabinet Subcommittees – rewrite required.

Article 8 – Regulatory and other Committees

Suggested amendments commentary:

- Generally speaking do members wish to have an article for each Committee rather than ToR spread across the constitution?

Article 9 – Standards Committee

Suggested amendments commentary:

- 9.04 suggests that the Committee **shall** appoint a subcommittee to hear complaints. No subcommittee has been appointed since 2012 and para 9.05 suggests this is a matter reserved to Council?
- It may be worth asking the Standards Committee to undertake a review of their processes before 2016. Document reads like a public facing document rather than a constitutional procedure.
- May be effected by Task and Finish Panel recommendations

Article 10 – Area Committees and Forums

Suggested amendments commentary:

- Title should reflect that we only have Area Planning Subcommittees and amended accordingly.
- It is suggested that this Article should be rewritten to combine the current information together with the Terms of reference that appear elsewhere in the constitution. Delegation arrangements would remain in part 3. The Article could also include the rules of participation. This would need to come back to Panel at a subsequent meeting.
- This work should take input from the Planning Scrutiny Panel and their consideration of the Terms of Reference of these committees scheduled for their meeting in December 2014.
- 10.03 – Conflicts of interest. – this should be deleted as scrutiny has no role in looking at live applications.

Article 11 – Audit and Governance Committee

Suggested amendments commentary:

- May be effected by Task and Finish Panel recommendations
- If remaining unchanged the ToR would need to reflect the requirements of the Audit and Accountability Act 2014

Article 12 – Constitution – Joint Arrangements

Suggested amendments commentary:

- None

Article 13 – Officers

Suggested amendments commentary:

- Duplicates part 7 Management Structure – Should be amalgamated.
- The Chief Financial Officer and Monitoring Officer should be consulted on the continuing correctness of this article. Action required.

Article 14 – Decision making

Suggested amendments commentary:

- The application and understanding of Key Decisions in 14.04 is confused and requires redrafting

Article 15 – Finance, Contracts and Legal Matters

Suggested amendments commentary:

- Section 15.03 duplicates a delegation in the council scheme
- 15.04 duplicates what is in Contract SO's
- 15.05 is wrong and duplicates delegation.

Article 16/17 – Review and Revision of the Constitution

Suggested amendments commentary:

- Suggest that sections (b) to (d) are removed and joined to article 17
- Rules for suspension to be taken into rules section.
- Section 17.03 to be amended to take into account current practices.

Members are asked to consider the proposals and make comment/changes or seek further work as may be necessary.