

Establishment of a Working Group to Review the Constitution

14 May 2018

Report of the Monitoring Officer

PURPOSE OF REPORT

To seek Council's approval to establish a working group to assist the Monitoring Officer with the review of the Council's Constitution, and to consider its terms of reference.

This report is public

RECOMMENDATIONS

- (1) That a Constitutional working group be established, comprising seven elected members proportionate to the Council's political balance, being four Labour, two Conservative and one Green Group members.**
- (2) That the terms of reference for the working group, set out in Appendix A, be approved.**
- (3) That, subject to acceptance of (1) and agreement of terms of reference, nominations be sought at this meeting to appoint a Chairman to the working group.**

1.0 Introduction

- 1.1 At the budget Council meeting on 28 February 2018, Members approved a budget of £20,000 for a review of the Council's Constitution to aid modernising governance. This followed on from a 'health-check' desktop review of the Constitution commissioned by the former Chief Officer, Legal and Governance, in late 2017. The desktop review was undertaken by legal consultants, Bevan Brittan. A representative from the firm met with several elected Members, the Chief Officers, Legal and Governance and Resources and the Democratic Services Manager at the start of the process to ask about any issues of particular concern and try and identify any matters which were likely to arise.
- 1.2 Bevan Brittan reported back in March and a meeting of the same Member group was called by the new Monitoring Officer, the Head of Legal and Democratic Services, to consider how to take the matter forward. Members felt that the review should be tackled as soon as possible, with a fully revised Constitution adopted prior to the 2019 elections.

Members agreed that a formally constituted group of members should be involved in the process.

1.3 Article 14 of the Constitution places a duty on the Monitoring Officer to monitor and review the Constitution to ensure that the aims and principles of the Constitution are given full effect.

1.4 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

(a) observe meetings of different parts of the Member and Officer structure;

(b) undertake an audit trail of a sample of decisions;

(c) record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and

(d) compare practices in this Authority with those in other comparable Authorities or national examples of best practice.

1.5 One possible next step is for Council to set up a member body to assist the Monitoring Officer with the review. This report sets out the preferred option from those set out below.

2.0 Options considered

2.1 **OPTION 1:** To refer the matter to the Audit Committee

2.2 **OPTION 2:** To create a formal working group to assist the Monitoring Officer for the duration of the review.

3.0 Terms of Reference

3.1 Appendix A sets out the proposed terms of reference for the working group

4.0 Conclusion

4.1 Members are requested to consider the content of this report and approve the establishment of a Constitution Review Working Group to assist the Monitoring Officer with the review until it reaches a conclusion in 2019.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

FINANCIAL IMPLICATIONS

As stated in the report, a budget of £20,000 was agreed in the Council's 2018/19 budget for use to effect the review. It is not envisaged that any Chairman's allowance will be paid to the Chairman of this time-limited review Committee.

LEGAL IMPLICATIONS

The Council's Constitution is the document by which, in accordance with the law, the Council exercises all its powers and duties and a thorough review is now due to ensure that the Constitution is streamlined and fit for purpose going forward. Adoption and modification of the Constitution is a function of full Council, however the Constitution remains under review on an ongoing basis and Article 14 of the Council's Constitution makes provision for the regular review of the Constitution by the Monitoring Officer.

Changes to the Constitution will only be approved after hearing recommendations on a proposal from the Monitoring Officer and/or the Audit Committee. Full Council is responsible for approving any changes to the Constitution except as set out in (a) below:

(a) Exceptions –

- i. It has been delegated to the Audit Committee to agree amendments to the Financial Regulations and Contract Procedure Rules and the Constitution will be updated to reflect any such changes.
- ii. It has been delegated to the Council Business Committee to agree amendments to all parts of the Constitution other than the Articles (Part 2), Responsibility for Functions (Part 3), Financial Regulations and Contract Procedure Rules (Part 5 - Sections 1 and 2).
- iii. Textual or factual amendments required to keep the Constitution up to date, or agreed consequential amendments as a result of Council decisions, may be implemented by the Monitoring Officer.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted in the drafting of the report.

BACKGROUND PAPERS

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PROPOSED TERMS OF REFERENCE

Composition:

7 Members of the Council on a proportional basis, the Chair and Members of the Working Group appointed by the council until May 2019.

Changes may be made by Council during the year if required.

Substitute members may be agreed by the Working Group as required.

- To provide political and social policy to the constitutional review by the Monitoring Officer.
- To monitor the delivery of the administrative policy provided by the relevant chief officers and ensure it meets the social and political policy objectives.
- To agree the appointment of and receive evidence from constitutional experts.
- To approve the text of the amendments to the constitution to give effect to the administrative policy.
- To steer the constitutional review to completion.
- To assist the Monitoring Officer in recommending to full council a revised version of the constitution by March 2019.