

COUNCIL BUSINESS COMMITTEE

Amendments to the Council's Constitution

25 March 2021

Report of the Monitoring Officer

PURPOSE OF REPORT

To consider for approval several amendments to various parts of the Constitution, as set out in the report.

This report is public.

RECOMMENDATION

- (1) **That Members approve the requests for amendments to the Constitution, which are detailed in paragraph 2.0 of this report.**

1.0 Background and Introduction

- 1.1 The terms of reference of this Committee include, at 8.5 of Part 2, Section 5 of the Constitution:-

“To agree amendments to all parts of the Constitution, on a referral from the Audit Committee or Monitoring Officer, other than the Responsibility for Functions, Financial Regulations and Procedures, Contract Procedure Rules and minor constitutional amendments which are within the responsibility of the Monitoring Officer.”

- 1.2 This is a report of the Monitoring Officer to refer several such amendments to the Committee for approval. Each matter is set out in detail in paragraph 2.0 below.

2.0 Proposed Amendments

- 2.1 Part 3, Section 2 (Cabinet Procedure Rules) Rule 11 currently states “**Cabinet agenda should not include information or noting reports.**” It is proposed that this sentence be removed, as it is sometimes quite appropriate for reports for information or noting to be included on a Cabinet agenda and this sentence is not helpful or necessary.

- 2.2 Part 3, Section 3 (Overview and Scrutiny Procedure Rules) Rule 9 (a) 2nd paragraph, last sentence, currently states about preparation of the O&S Work Programme “Issues will be assessed by the Committee using a template to determine the salience of the issue based on risk management, corporate priorities and other relevant factors.” The Overview and Scrutiny Committee resolved quite some time ago to ask the Monitoring Officer to consider any constitutional issues around changing the wording above to: “**A meeting be**

arranged with the Chair of the Overview & Scrutiny Committee, Chair of Budget & Performance Panel, the Pre-Scrutiny Champion and members of the Council's Executive Team. This meeting will allow a preliminary prioritisation of submissions to be conducted and report back to this Committee. This being subject to the arrangements for consulting on future Work Programme items as set out in the Constitution continuing and the Work Programme being finally agreed by this Committee." The matter does not appear to have been considered by the Monitoring Officer at that time. Democratic Services have brought this to the attention of the current Monitoring Officer, who has advised that this is a change to the Constitution, which the Council Business Committee is authorised to make, if it agrees with the Overview and Scrutiny Committee that this would allow for a more considered and rounded Work Programme to be developed.

- 2.3 The next proposal results from recent talks with the Centre for Governance and Scrutiny (CfGS) about the grounds for call-in. The CfGS suggested that these be reviewed, as they are extremely wide. Part 3, Section 3 (Overview and Scrutiny Procedure Rules) Rule 16 currently states "**Call-in should only be used in exceptional circumstances. 'Exceptional circumstances' are where members of the Overview and Scrutiny Committee have evidence that the decision in question will not be, or has not been made, in accordance with the decision making principles set out in Part 1 (of the Constitution) or other reasons, provided that the reasons are specified in full on the form requesting the Call-in**". It is proposed that the words 'or other reasons' are removed, that a full stop is inserted followed by this sentence: "The reasons must be specified in full on the form requesting the Call-in." This change is proposed because Call-in has to be used in exceptional circumstances where it is believed that a decision has not been properly made, and the inclusion of the words 'or other reasons' makes it possible for almost any decision to be called in for any reason, even if soundly made.
- 2.4 Cabinet Procedure Rule 4(b) in Part 3, Section 2, requires the Leader to report any changes in their Executive Scheme of Delegation in writing to the Director of Corporate Services and that "**The Director of Corporate Services will present a report to the next Ordinary meeting of the Council setting out the changes made by the Leader.**" Before the review of the Constitution in 2019, the report to Council was always in the name of, and presented by, the Leader and the current Leader would like this still to be the case. It is therefore proposed that the last sentence of Rule 4 (b) is amended to read: "The Leader will present a report to the next Ordinary meeting of the Council setting out the changes made."
- 2.5 The Leader routinely extends the ability to ask questions on reports to non-Cabinet Councillors who are in attendance at Cabinet meetings. The way this is effected is via waiving Council Procedure Rule 17 at each meeting. This needs a proposer, seconder and opportunity to vote, which is time consuming. Adding a Cabinet Procedure rule to allow chair's discretion on this matter would remove the need for this procedure at every meeting. It is proposed that a Cabinet Procedure Rule is added (after the current Rule 16) called Rule 17 – Chair's discretion regarding questions on reports, which states "The Chair at their discretion may allow non-Cabinet Councillors in attendance at the meeting to ask questions on reports as they are introduced." The Procedure Rules following this new Rule 17 would be renumbered accordingly.

3.0 Conclusion

- 3.1 The Committee is asked to consider and approve the amendments to the Constitution set out in this report.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing) None.	
LEGAL IMPLICATIONS None identified.	
FINANCIAL IMPLICATIONS None identified.	
OTHER RESOURCE IMPLICATIONS, such as Human Resources; Information Services; Property; Open Spaces: None.	
MONITORING OFFICER'S COMMENTS The Monitoring Officer has been consulted and has no further comments.	
SECTION 151 OFFICER'S COMMENTS The Section 151 Officer has been consulted and has no further comments.	
BACKGROUND PAPERS Lancaster LGBCE Site	Contact Officer: Debbie Chambers Telephone: 01524 582057 E-mail: dchambers@lancaster.gov.uk