

Constitution Framework 2019

13th March 2019

Report of Constitution Sub Committee

PURPOSE OF REPORT

To provide a draft constitution for approval in principle and for the final draft for approval on 10 April 2019.

This report is public.

RECOMMENDATION OF THE CONSTITUTION SUB COMMITTEE:

- (1) The draft constitution is approved in principle.**
- (2) The draft constitution is converted to the full web based digital format**
- (3) The constitution subcommittee finalise any extant issues**
- (4) The monitoring Officer be delegate authority to correct and amend any minor typographical, editing or text errors.**

1 INTRODUCTION

1.1 On the 26 September 2018 full council approved a set of policy principles for the review of the constitution. This was to give effect to:

- i) Improve speed, flexibility and resilience in decision making
- ii) Provide transparency and accountability
- iii) Improve performance and efficiency
- iv) Improve the quality of debate in the chamber
- v) Reduce unnecessary administration costs associated with decision making
- vi) Make the document digitally accessible

1.2 The outcomes are set out against the original policy objectives in appendix 1.

1.3 The draft constitution is set out in appendix 2.

1.4 The schedule of significant changes is set out in appendix 3.

1.5 The schedule of conventions is set out in appendix 4.

1.6 As the review developed, it became clear that the need to review the financial limits on the Key Decisions and Delegated Decisions to officers had a consequential impact on the Financial and Contract Procedure rules.

- 1.7 These areas of the constitution review, together with a review of procurement processes will make up the second phase. Quotes have already been obtained and, allowing for significant input, it is not anticipated this will exceed £8,000.
- 1.8 There are several additional areas of work that officers will need to conclude, these range from the practical issues of hosting the constitution on the website, to updating and cross referencing the links. Further tasks include updating the Member's Code of Conduct, linking it to the web version of the constitution and giving members access to the interest forms etc to be submitted electronically if they wish.

2 OVERVIEW OF CHANGES

- 2.1 There have been a number of procedural and stylistic amendments to the draft. The language is now gender neutral e.g. 'chair'
- 2.2 The articles of the constitution have been removed and replaced with a summary and a section setting out the functions. This gives clarity on the Executive and Non-Executive element. It should be noted this section and the management chart will be updated from time to time as the current proposals for new delivery structures are considered.
- 2.3 Members' ability to access information has been reviewed and now better reflects the common law and statutory regimes. The extremely wide wording of the constitution (as it had been previously amended) required reference back to the legal provisions before deciding if information was shared. The current wording is less wide, reflects the county council position, and better controls risks around information.
- 2.4 Delegated financial limits have changed significantly. The current Key decision limit is £50,000. Individual Cabinet Members may not make a Key Decision. In certain circumstances officers may. The new proposals are:
- Key Decisions Limit at £250,000
Individual Cabinet Members may make Key Decisions
Delegated Chief Executive £200,000
Delegated to Directors £150,000
- 2.5 The delegated officer limit now requires all Key Decisions to have political oversight whilst allowing many transactional activities to proceed without the need for 28 days' notice period.
- 2.6 Secondary schemes of delegation and other supporting documents will no longer form a direct part of the constitution, but will be linked to the main document. This will allow for a much easier updating of supporting documents by the Monitoring Officer whilst ensuring the integrity of the constitution.
- 2.7 Members' participation in the chamber is enhanced by an opportunity for members to ask questions of those proposing any motion on notice. This will be set out in the constitution. Questions to officers will be limited to technical questions on the briefing note, which should if at all possible be sent in advance. This will be captured by reference to conventions in appendix 3.
- 2.8 Other changes include a limitation on the term of leader to 2 years before re-election, giving the tenants' forum its own recognition as a forum rather than a

Cabinet Liaison Group, changes to Committees' terms of reference to empower greater strategic oversight of the City Council, for example Personnel Committee becomes much more policy development based and transactional roles such as appeals are limited to heads of service and above. The significant changes are set out in appendix 4.

3 PHASE 2

- 3.1 If full council approve the primary review, there are further consequential amendments to consider. The changes in delegated decision making will require a review of the Financial and Contract Procedure Rules. This in in part to ensure consistency but also streamline the procedures to aid transparency particularly in relation to the delegated budget limits. It is anticipated the majority of the work will be internally resourced with drafting and legal compliance being checked externally.
- 3.2 A review of the Procurement procedures has also been requested. Partly this is to modernise the process to reflect the new limits, but also to ensure there is a clear audit trail in respect to the mandatory aspects of our procurement, such as the Public Service (Social Value) Act 2012, and in particular section 1 (3) The authority must consider—
 - (a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
 - (b) how, in conducting the process of procurement, it might act with a view to securing that improvement.
- 3.3 This will assist both officers and members in assessing the non-economic value or impact particularly in relation to local wealth building, climate change and social impact.
- 3.4 Additional sections are also being drafted to cross reference to the constitution, for example the roles, responsibilities and duties of members appointed to outside bodies. This will become increasingly important if the Council chooses to set up a trading option and the current structure of the constitution will allow for the additional documents to be referenced easily.
- 3.5 As the constitution moves forward to being fully web based, additional work will be required to review and modernise codes of conduct and ancillary documents. To achieve the policy objective of digital and efficient forms such as gift and hospitality and interests will be moved to a digital format in phase 2 and lined to the constitution. This should substantially improve accessibility and reduce administration.

4 CONCLUSION

- 4.1 This draft constitution addresses the main policy criteria that full council sought to be addressed. The second phase will deal with the more technical aspects and updating to the Financial and Contract Procedure Rules.

RELATIONSHIP TO POLICY FRAMEWORK

The Policy Framework for the review was set by Full Council 26 September 2018

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability etc)

The constitution is one of a series of mechanisms that govern the relationship of the corporate body of the City Council to its members and citizens. It must balance the legislative and human rights obligations.

Gender neutrality in language has also been adopted.

LEGAL IMPLICATIONS

The Report gives in principle approval and the exact wording of the final draft to be presented to council on the 10 April 2019 will be checked for statutory compliance.

FINANCIAL IMPLICATIONS

There are no direct cost implications.

OTHER RESOURCE IMPLICATIONS**Human Resources / Information Services / Property / Open Spaces:**

Various budget proposals have resource implications and these have been taken account of in Cabinet's consideration of budget options as far as possible at this stage. Their implementation would be in accordance with council policies and procedures, as appropriate.

SECTION 151 OFFICER'S COMMENTS

The constitution review significantly increases the delegated value of decisions. Council must be satisfied on the balance of transparency, accountability and scrutiny with the need to make timely and robust decisions.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer is the sponsor of this report

BACKGROUND PAPERS

Council report 26 September 2018

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