

<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>28 MAY 2010</b>
<b>TITLE OF REPORT:</b>	<b>COUNCIL CONSTITUTION</b>
<b>REPORT BY:</b>	<b>CABINET MEMBER FOR CORPORATE AND CUSTOMER SERVICES AND HUMAN RESOURCES</b>

**CLASSIFICATION:** Open

### **Purpose**

To seek approval for issues relating to the council constitution.

### **Recommendation(s)**

**THAT Council :**

**a) Approves the following changes to the Constitution:**

- i. That the Deputy Chief Executive be designated as statutory Scrutiny Officer.**
- ii. That responses to Health Scrutiny Committee recommendations and those relating to Crime and Disorder Scrutiny are provided by Cabinet within 28 days (Part 4, Section 5 (4.5.13.3)).**
- iii. That a position of Vice Chairman of the Standards Committee is created and delegate this appointment to the Standards Committee.**
- iv. That Standards Committee sub-committees be established through the selection of 3 members of the Committee (including one independent and one parish member (for parish matters) to undertake reviews of decisions of the assessment sub-committee, consideration of investigation reports and hearings**
- v. That the Council receive formal reports from the Standards Committee at all its meetings (as appropriate)**
- vi. That the wording of the Schedule of Articles – Description of Executive arrangements be clarified at Part 2 (2.14.1)**
- vii. That the Council rules and Cabinet rules (Part 4) relating to the requirements of the Leader's reports are amended to ensure consistency**

- viii. **That the function of appointing Representatives to Outside Bodies be made consistent with delegations provided to the Chief Executive**
  - ix. **The wider distribution of decisions to all Councillors be reflected appropriately in Part 4, Section 5 (4.5.16.7(b))**
  - x. **That formal reference be made within the constitution to preclude the recording or filming of meetings without the express prior consent of the Chairman and informing all in attendance**
- b) **Instructs the Monitoring Officer to incorporate the agreed recommendations in the Council's Constitution and make consequential amendments; and**
- c) **Notes the work undertaken by the Constitutional Review Working Group which continues to assist with such further constitutional review work as it determines.**

## **Key Points Summary**

- Council at its meeting on 13 November 2009 agreed to adopt a new Constitution to take effect on 1 January 2010. This completed Phase 1 of the constitutional review.
- Members of the Constitutional Review Working Group have been progressing Phase 2 of the constitutional and governance review and make recommendations to Council on issues as outlined in the report.
- It is proposed that a fully revised constitution be submitted to Council in July 2010

## **Alternative Options**

- 1 The alternative options in each of the issues outlined were discussed at the Constitutional Review Working Group and other bodies where applicable.
- 2 Council now has the following options:
  - a. To accept the amendments as outlined in the report
  - b. To reject the amendments as outlined in the report

## **Reasons for Recommendations**

- 3 The proposed amendments are those that are essential for the clarity and proper functioning of the constitution and to ensure that the new Constitution reflects the principles of good governance. All issues for consideration have been considered by the Constitutional Review Working Group, and where appropriate by other groups and Committees.
- 4 Some amendments are also required in order to ensure compliance with all legal requirements.

## **Introduction and Background**

- 5 At its meeting on 13 November, the Council tasked the Monitoring Officer to undertake further work on the constitution under the direction of the Constitutional Review Working Group. This

report seeks approval of several issues which have been identified during Phase 2 of the review and which require to be either amended or included within the constitution.

## **Key Considerations**

6 For ease of reference, these issues are grouped as follows:

- (a) Legislative requirements
- (b) Standards Committee
- (c) Clarification of Anomalies

### **Legislative Requirements**

7 Petitions Scheme – the Petitions duty is contained in the Local Democracy, Economic Development and Construction Act 2009. This is the subject of a separate report to Council on this agenda including the need for consequential constitutional changes.

8 Statutory Scrutiny Officer – the Local Democracy, Economic Development and Construction Act 2009 required the Council to formally designate one of their officers as a scrutiny officer, to be known as the authority's scrutiny officer. The designated officer is required to discharge the following functions:

- (a) to promote the role of the authority's overview and scrutiny committee or committees;
- (b) to provide support to the authority's overview and scrutiny committee or committees and the member of that committee or committees
- (c) to provide support and guidance to : (i) members of the authority, (ii) members of the Executive of the authority, and (iii) Officers of the authority – in relation to the functions of the authority's overview and scrutiny committee or committees.

9 Although the Statutory Scrutiny Officer is a statutory post it is not subject to the same recruitment and discipline procedures as the Council's other statutory posts. The statutory scrutiny officer post must be recognised within the council's constitution and designated to a post. It is proposed that the post of Deputy Chief Executive be designated Statutory Scrutiny Officer.

10 Responses to Scrutiny Reports – Legislation specified that a response to scrutiny committee recommendations should be made within two months, with the exception of Health Scrutiny Committee and issues relating to Crime and Disorder Scrutiny which require a response within 28 days. This variance needs to be reflected within the constitution at Part 4, Section 5 (4.5.13.3).

### **Standards Committee**

11 Establishment of Vice-Chairman Office - Currently the only formal position on the Standards Committee of eight members is that of the Chairman, who is an independent member. There is no nominated Vice-Chairman position on the Standards Committee and it is proposed that this position be formally established at this meeting. The appointment must be that of an independent member and it is proposed that the Council delegate the appointment of Vice Chairman to the Standards Committee. The level of activity of the Committee has increased and it is felt that it would be beneficial to have a formally appointed Vice Chairman who could share the responsibility for fulfilling the role of Chairman in his absence or where demands are such that it requires detailed work of more than a single person with the authority of the Chairman.

- 12 Establishment of formal sub-committee structure - Currently the Standards Committee has only one sub-committee; the assessment sub-committee. All other business must be conducted by the Committee as a whole. The different roles that need to be fulfilled by the Committee during the course of handling a complaint may require several different meetings to deal with different tasks. Different members are required for some of those tasks. It is felt appropriate to recommend that the Standards Committee be permitted to conduct assessments, reviews, consideration of investigation reports and hearings by sub-committee. It is not recommended that standing sub-committees be established but rather to ensure flexibility it is proposed that the Monitoring Officer be authorised to establish a sub-committee when required for each of these purposes by selecting at least 3 members (one of which must be independent and one of which on parish matters must be a parish representative).
- 13 Reports to Meetings of the Council – Given the unique relationship between the Council and the Standards Committee, and to maintain good practice, it is proposed that the Standards Committee provide reports to all Meetings of the Council (as appropriate).

### **Clarification of Anomalies**

- 14 As part of the ongoing review of the constitution, the Members, Officers and interested individuals have provided helpful comments on the contents of the constitution in relation to possible anomalies, inconsistencies and duplications as well as highlighting the need to address presentational issues in respect of typographical corrections, grammar and formatting. All comments on the constitution have been welcomed and those received to date have been considered. Most of those issues raised will be dealt with in the proposed redrafting process (under the delegations provided to the Monitoring Officer) and will be captured in the re-draft of the constitution to be presented to the Meeting of Council in July. Some proposed amendments should not be incorporated in the Constitution and those will be detailed with the reasons for not adopting them will be fully explained. In the meantime, the following anomalies need to be addressed at the Annual Meeting of Council.
- 15 Schedule of Articles – It has been highlighted that the Schedule of Articles – Description of Executive arrangements at Part 2 (2.14.1), is not referred to formally within the constitution. The schedule is a statutory requirement of the Local Government Act 2000. It is proposed to add appropriate wording to clarify this point.
- 16 Leader's Report – the Council rules (Part 4, Section 1) need to reflect the Leader's report rules currently outlined in the Cabinet rules (Part 4, Section 4.11) to avoid inconsistency.
- 17 Appointing Representatives to Outside Bodies – this function outlined in the Council Functions (Part 3, section 2) requires to be made consistent with delegations provided to the Chief Executive and should reflect that the function be carried out by the Chief Executive.
- 18 Following implementation of the new constitution, decisions made by the Cabinet or individual Cabinet Members are sent to all Members. Reference to this increased distribution needs to be reflected appropriately in Part 4, Section 5 (4.5.16.7(b)).
- 19 Recording of Proceedings – The constitution is currently silent on the issue of recording proceedings. It is proposed that formal reference is made within the constitution to preclude the recording or filming of meetings without the express prior consent of the Chairman and informing all in attendance.
- 20 The Council is asked to approve these changes and authorise the Assistant Chief Executive – Legal and Democratic to make the necessary amendments to the Constitution in consultation with the Chairman of the Council. A full redraft of the Constitution will be presented to Council in July 2010.

## **Constitutional review**

21 A work programme has been developed and approved by the Constitutional Review Working Group for Phase 3 of the constitutional and governance review. The Phase 3 work programme outlines activities which will continue following the Annual Meeting and which includes completion of reviews on contractual procedure rules, financial procedure rules and the functions and procedure rules for the regulatory functions. A full technical redraft will be undertaken of the constitution in advance of the July Council meeting and this revision will be circulated to all Members. This redraft will seek to eliminate all remaining anomalies, consolidate examples of duplication and rectify typographical and grammatical errors. The changes to financial procedure rules and regulatory functions and procedures will be presented to Council later in the year.

## **Community Impact**

22 These amendments to the Constitution seek to clarify elements of the constitution thus enable the public to understand more clearly what the Council and its partners are trying to achieve and how they work together to do that.

## **Financial Implications**

23 There have been no substantive changes to the Council's current Financial or Contract Procedure Rules (Part 4 – Sections 7 and 8). There are no additional financial implications to the designation of the Statutory Scrutiny Officer post.

## **Legal Implications**

24 The Constitution reflects the statutory requirements and guidance, those recommendations reflecting particular legal requirements are noted in paragraphs 7-10 above.

## **Risk Management**

25 There are no risk management issues other than the need to ensure legal compliance.

## **Consultees**

26 The Constitutional Review Working Group has met frequently and been consulted on all proposals in this report.

27 The Standards Committee considered a report on constitutional issues at their meeting on 16 April and submitted their comments to the CRWG for progression to the Annual Meeting.

## **Appendices**

28 There are none.

## **Background Papers**

- a. Local Democracy, Economic Development and Construction Act 2009
- b. Constitutional Review Working Group reports and papers including action notes and schedule of "follow up" actions – these papers have been updated after each meeting and made available to all Councillors in the Group rooms within the Council offices