
Subject: REVIEW OF THE CONSTITUTION 2014

Meeting and Date: Governance Committee – 2 October 2014
Council – 26 November 2014

Report of: Director of Governance

Classification: UNRESTRICTED

Purpose of the report: Article 15 of the Constitution requires the Monitoring Officer to conduct regular reviews of the Constitution.

Recommendation: That it be recommended to the Governance Committee:

(a) That it note the Review of the Constitution 2014.

(b) That it recommend to Council that the proposed changes in the Review of the Constitution 2014, and specifically the delegations in Part 3 that relate to Council functions, be approved and incorporated into the Council's Constitution.

That it be recommended to Council:

(c) That the Review of the Constitution 2014, and specifically the delegations in Part 3 that relate to Council functions, be approved and the proposed changes be incorporated into the Council's Constitution.

(The Leader of the Council will be asked separately to approve any changes relating to the powers of the executive.)

1. Summary

1.1 Article 15 of the Council's Constitution makes provision for the regular review of the Constitution by the Monitoring Officer on an annual and ad-hoc basis. This review forms part of the annual review process and incorporates a number of changes reflecting legislative and organisational change, as well as some format changes intended to make the document more accessible.

2. Introduction and Background

2.1 Since the introduction of the first version of the Constitution in 2002, the Council has revised the Constitution seventeen times. The Review of the Constitution 2014, which has been undertaken by the Director of Governance / Monitoring Officer in conjunction with the Solicitor to the Council and supported by Democratic Services, will be the eighteenth revision resulting in the proposed draft version 19.

2.2 Due to the size of the Council's Constitution, it is not practical to conduct a detailed analysis of nearly 500 pages on an annual basis and instead specific areas are selected each year for review. This year's review has concerned itself with changes arising from to legislation, the Council's organisational structure and the collation of changes made by decision-making bodies such as the Cabinet or Council during the course of the previous year.

2.3 The key focus of this year's annual review was as follows:

- Part 3 Responsibility for Functions – incorporating amendments required as a consequence of legislative and organisational change and reorganising the delegations into a new easier to read format. This was the primary focus of the review.
- Part 4 Council Procedure Rules (Access to Information Rules)
- Part 4 Council Procedure Rules (Budget and Policy Framework Procedure Rules)
- Part 5 Codes and Protocols (Members’ Planning Code of Good Practice)

Approval of Amendments to the Constitution

- 2.4 The changes to the Constitution come in three types – changes requiring Executive approval, changes delegated to the Monitoring Officer to approve and changes requiring Council approval.
- 2.5 A summary of the key changes is set out below for information.

Council Procedure Rules

- 2.6 The Council Procedure Rules have been the subject to incremental changes over a number of years. The changes made to this rules as part of this review are largely housekeeping (such as updating references) with the exception of a small but significant change has been made to Rule 18 of the Council Procedure Rules as a consequence of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014. The Regulations introduce a requirement for a recorded vote at a meeting where a budget decision (as defined by the Regulations) is made.

Members’ Planning Code of Good Practice

- 2.7 A revised copy of the Planning Code was produced by Lawyers in Local Government (LLG), the successor body to the Association of Council Secretaries and Solicitors (ACSES) following legislative changes. This revised Planning Code forms the basis of the Dover Members’ Planning Code of Good Practice subject to a few local variations (such as the retention of the existing Dover Site Visit Procedure).

Access to Information Procedure Rules

- 2.8 The Access to Information Procedure Rules have been amended to reflect recent changes in legislation arising from the Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 concerning the recording of meetings, the Council’s publication scheme and the recording of officer and member decisions.

Budget and Policy Framework Procedure Rules

- 2.9 The amendments to the Budget and Policy Framework Procedure Rules were designed to remove redundant steps. It should be emphasised that this was a light touch review of the Rules ahead of a fundamental review in 2014/15 and that none of the changes alter the balance between Member and Officer decision-making responsibilities.

Responsibility for Functions

- 2.10 The Council's organisational structure has undergone a number of changes in the last few years and this has required amendments to the officer delegations in Part 3. Where these changes are as a result of changes in officer job titles the Monitoring Officer has delegated authority to make these changes to the Constitution and these are presented to Members for note.
- 2.11 The attention of Members is drawn to the revised format of the delegations in many places. The purpose of this change is to make it clearer as to the nature of the delegations granted to the officer and the limits on them. These changes follow from the work programme of 2014.
- 2.12 The delegations have also been reviewed in light of the recent *Pemberton International Ltd v London Borough of Lambeth (2014)* case to ensure that sub-delegations were only being made to those officers competent to exercise the function and with direct line management to the delegating Director.

Presentation and Printing of the Revised Constitution

- 2.13 The revised Constitution is nearly 500 pages long and as with last year's Review, rather than providing a paper copy, an electronic copy is available on the Council's website and attached as an appendix to this agenda through the Modern.Gov app accessible from Members' iPads.
- 2.14 The cost of printing and posting a single copy of the Constitution is estimated as being in excess of £17 and multiplied by 45 members has a significant cost implication. However, a printed copy of the Constitution is available on request by any member of the Council.
- 2.15 Members are requested to consult the electronic version of the draft Constitution in advance of the meetings of the Governance Committee and the Council. The Monitoring Officer will have an electronic version of the Constitution displayed at the meeting for Members to view.
- 2.16 The Monitoring Officer has drawn up a work programme for the 2015 Review of the Constitution based on areas that it is expected will need revision as follows:
- Budget and Policy Framework Procedure Rules
 - Financial Procedure Rules
 - Part 3 – Responsibility for Functions

3. Identification of Options

- 3.1 Option 1 – To approve the Review of the Constitution and note the proposed work programme for 2015.
- 3.2 Option 2 – To not approve the Review of the Constitution.

4. Evaluation of Options

- 4.1 Option 1 is the preferred option as it enables the efficient operation of the authority to continue.

4.2 Option 2 is not the preferred option as it will significantly impede the day-to-day operation of the authority as the Constitution will no longer be able to operate as a definitive reference for officers.

5. **Resource Implications**

There are no resource implications arising from the Review of the Constitution.

6. **Appendices**

Appendix A – Draft Constitution of the Council (Version 19)

7. **Background Papers**

Relevant Legislation

Lawyers in Local Government – Model Planning Code

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