

CONSTITUTION COMMITTEE: 20 SEPTEMBER 2012

REVIEW OF THE CONSTITUTION

AGENDA ITEM: 6.

**REPORT OF THE LEGAL & DEMOCRATIC SERVICES AND
MONITORING OFFICER**

Reason for this Report

1. To consider proposals for a review of the Council's Constitution.

Background

2. The Council's Constitution sets out the fundamental principles on which the Council is governed. It includes information on how the Council operates, how lawful decisions are made and the procedures to follow to ensure that the Council conducts business efficiently and is transparent and accountable to local people. The current Constitution first came into effect in May 2002 to take account of the requirements of the Local Government Act 2000 which separated the functions of Executive and Scrutiny. Since this time it has been periodically reviewed and amended to enhance clarity, remove minor anomalies, reflect legislative changes or matters of record and make changes required by the Administration.
3. The business of the Council is diverse and the Constitution needs to take account of this to ensure governance arrangements for relevant activities are appropriately covered. It is currently divided into eight parts with fifteen articles, and more detailed procedures and codes of practice.
4. The Chair of the Constitution Committee has written to all Members of the Committee to set the scene and give them the opportunity to review the terms of reference of the Committee in advance of the meeting.

Issues

5. This Administration has made clear its plans to support a review of the Constitution by the Constitution Committee in order to produce a streamlined, improved document that is more user-friendly for Members, staff and the public. The Leader and Cabinet have given an initial view on the areas they would like the Constitution Committee to consider as part of this review and this will form part of the discussions going forward.

6. Wider benefits will include improved decision making, better engagement of key stakeholders, and better informed decisions.
7. The Constitution is a detailed and complex document and sufficient time is required to complete this review. It is proposed that the review is divided into manageable stages to ensure that interested parties are able to engage with it, make suggestions for improvements and understand the working constraints.
8. This Committee will set the overall direction for the review. A proposed outline timetable is set out in Appendix A for Committee to consider taking forward the following as priority areas:
 - Council Meeting Procedure Rules;
 - Scheme of Delegations; and
 - Interaction with citizens as part of the democratic process (e.g. Public Questions; petitions).

Other proposed topics that Committee could consider as part of a longer term programme of work include (non exhaustive list):-

- Constitution Summary;
 - Cabinet and Scrutiny interaction;
 - Scrutiny Procedure Rules;
 - Call in Procedures; and
 - Role and Function of Council.
9. It is also intended to achieve improvements to the look and feel of the Constitution document to ensure business is conducted in an open and transparent way. It is important that the revised Constitution will be:
 - easy to read and understand;
 - kept as simple as possible and easy to navigate via the intranet and internet;
 - available in Welsh and English;
 - more interactive, making better use of the website and hyperlinks to live documents;
 - able to address any anomalies in the current Constitution;
 - fit for purpose (here and now);
 - able to take account of the needs of residents, all members, Cabinet and officers;
 - accessible to allow all users to interact personally with the web pages, including exploring the opportunity to introduce e - petitions to enable

more effective ways of engaging with and contributing to the development of Council policy;

- free of jargon;
 - a mechanism for better engagement with back bench members and members of the opposition so that all members feel they have a role to take;
 - a more streamlined way of conducting business and decision making; and
 - easily available to the public, including those citizens that have been harder to engage such as youth groups, so that they are able to take a more active role in the Council's decision making processes.
10. Committee is being asked to consider the detail and any changes to the Council Procedure Rules and the Council Scheme of Delegations in its bi-monthly meetings. This work programme would be supported by the Monitoring Officer and other officers in providing draft proposals/options as requested, and in consultation with the Chair, for consideration by the Committee.
11. The Committee are also asked to consider whether to establish a Task and Finish Group, from the Committee's Members to take forward the part of the review that considers how citizens interact with the democratic process. The Task and Finish Group will appoint a Chair and will make recommendations for the changes required to the full Committee. This Group would be open to all members of the Constitution Committee and should take account of the views of all stakeholders including the Cabinet and Scrutiny before making any final recommendations for change. Proposed Terms of Reference for this Committee are set out in Appendix B.

Reason for Recommendations

12. To review the role of the Constitution Committee.
13. To scope the proposed review of the Council's Constitution to ensure it is fit for purpose and more user-friendly for Members, staff and the public to achieve improved decision making, better engagement of key stakeholders, and better informed decisions.

Legal Implications

There are no particular legal implications arising from the content of this report, however the following should be noted in relation to the making of amendments to the Constitution.

By virtue of article 14 of the Constitution the making of amendments to the Constitution is reserved to Council unless otherwise delegated. The Committees terms of reference set out the Committee's delegated authority:

To review the Council's Constitution, and to recommend to Council and/or Executive any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-

- (a) Drafting improvements to enhance clarity and remove minor anomalies.*
- (b) Updating to reflect legislative changes and matters of record.*
- (c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).*

Any amendments to the Constitution that are proposed as a result of the review anticipated by this report that do not fall within this remit will require the approval of Council.

Legal advice will be available at the meeting.

Financial Implications

There are no financial implications arising from the report

RECOMMENDATIONS

The Committee is recommended to:

1. agree the timetable for the review of the Council's Constitution, as set out in Appendix A to the report; and
2. approve the Terms of Reference for the Constitution Committee Task & Finish Group for the review of the Council's Constitution, as set out in Appendix B to the report.

MELANIE CLAY

Chief Officer, Legal & Democratic Services and Monitoring Officer
14 September 2012

The following Appendix is attached:

APPENDIX A: Outline Timetable for Review of the Constitution

APPENDIX B: Constitution Committee Task & Finish Group – Terms of Reference

APPENDIX A

Proposed Outline Timetable for Review of the Constitution:

| Task | Timescale by: |
|--|---|
| Review of Council Procedure Rules (CPR): <ul style="list-style-type: none">• Outline the broad principles for changes required• Consult Whips on changes• Produce revised CPR• Trial changes | January 2013 |
| Review of Delegations: <ul style="list-style-type: none">• Options paper prepared with high level pros and cons of each option• Recommendation from Constitution Committee on preferred option for delegated authority• Letter to Leader from Chair of Constitution Committee on preferred option for delegations• Administration's agreement on revised delegations• Officer input to revised delegations• Changes made• Sign off by Constitution Committee | March 2013 |
| Task & Finish Group Review of Interaction with Citizens (e.g. Public Questions, Petitions): <ul style="list-style-type: none">• Establish Constitution Committee Task & Finish Group• Map out current position• Investigate good practice in other Councils• Identify changes required• Green Paper for public consultation (end of Jan 2013)• Feedback from Consultation (early March 2013)• Changes to be incorporated in Council Procedure Rules and other relevant parts of the Constitution• Live trial | May 2013 Council (Annual Meeting) |

APPENDIX B

DRAFT TERMS OF REFERENCE

Constitution Committee Task & Finish Group Interaction with Citizens

Scope

The Constitution Committee will set the overall direction for the review of the Constitution and the Task and Finish Group will be an advisory group to this Committee making recommendations for changes.

It is proposed that the Task and Finish Group focuses on the areas of the Constitution that interact with citizens as part of the democratic process (e.g. Public Questions; petitions) and makes recommendations for improvements to the current process.

Membership

All Members will be serving members of the Constitution Committee. The Task and Finish Group will appoint a Chair and will make recommendations for the changes required to the full Committee.

Timescales

- The Task and Finish Group meets monthly from October 2012 and provides update reports to each Constitution Committee.
- Green Paper for public consultation prepared by January 2013
- Feedback from consultation by March 2013

It is intended that the Review will be completed in time for the Annual Council in May 2013