

REPORT TO: Civic Affairs Committee

3 March 2020

LEAD OFFICER: Deputy Head of Legal Practice and Democratic Services
Team Leader

Report of the Constitution Review Task and Finish Group

Executive Summary

1. The Civic Affairs Committee, at its meeting held on 3 December 2019, received the report of the Constitution Review Task and Finish Group, together with the first draft of the revised Constitution.
2. The Civic Affairs Committee requested that the task and finish group give further consideration to a number of issues and report back to a future meeting of the committee.
3. The task and finish group has now concluded its review of the matters referred back to it and this report outlines the recommendations of the group. It additionally notes that the draft Constitution has been updated to reflect the outcomes of the organisational review.
4. The updated report and recommendations of the Constitution Review Task and Finish Group are set out at Appendix G to this report.

Recommendations

5. It is recommended that Civic Affairs Committee:-
 - (a) Notes the response of the Constitution Review Task and Finish Group in respect of the matters referred back by the Civic Affairs Committee at its last meeting (paragraph 7 of this report) and approves the revisions to the relevant Sections of the Constitution as set out in Appendices A to C, D2, E and F1 – F4.
 - (b) Subject to any amendments to the sections in (a) above, approves the recommendations of the Constitution Review Task and Finish Group, as set out in Appendix G, and recommends the Council to adopt the revised Constitution (Appendix H), Ethical Handbook (Appendix J), Public Speaking Scheme (Appendix K1) and Petitions Scheme (Appendix K2) with effect from the new Municipal Year.
 - (c) authorises the Chief Executive, after consultation with the Chairman and Vice-Chairman of the Committee, to make any further typographical or minor amendments to the draft Constitution prior to its submission to Council.

Reasons for Recommendations

6. To enable the Committee to determine whether to recommend to Council the adoption of the revised Constitution and to consider associated recommendations of the Constitution Review Task and Finish Group.

Details

7. The report of the Constitution Review Task and Finish Group and the draft Constitution was submitted to the meeting of the Civic Affairs Committee on 3 December 2019. During its discussions, the Committee requested the task and finish group to consider further a number of areas as identified below:

7.1. Planning Scheme of Delegation

- 7.1.1. The Committee asked the task and finish group to review a proposed amendment to the Planning Scheme of Delegation. This matter was considered by the Planning Committee on 12 February 2020.

7.2. Contract Regulations

- 7.2.1. The task and finish group was asked to review the Contract Regulations as it was felt that they did not adequately reflect the Council's environmental aspirations and its commitment to create a cleaner, greener and zero-carbon future for South Cambridgeshire.
- 7.2.2. The Council's Procurement Officer reviewed the regulations in line with the comments of the Civic Affairs Committee and consulted with the Leader and the Chair of the Climate and Environment Advisory Committee on suggested changes to the regulations.
- 7.2.3. The task and finish group supported the proposed revisions, noting that the principal changes related to questions to be asked of suppliers as set out in paragraph 2.1 (j) of the revised regulations.
- 7.2.4. The revised regulations are set out in Appendix A.

7.3. Protocol on Member Officer Relations

- 7.3.1. Civic Affairs Committee asked the task and finish group to review paragraph 7 of the protocol on Member/Officer Relations (Members' Enquiries). It was suggested that paragraph 7.1 should be amended as councillors should receive responses from officers more promptly than the corporate target for response to public enquiries, given that councillors may be responding on behalf of a resident.
- 7.3.2. The Chief Executive reviewed the provision and agreed that there should be an expectation that officers should aim to respond to Members within 48 hours of receiving an enquiry, rather than in line with the corporate deadline as

previously drafted. Paragraph 7.3 has been amended accordingly and this was supported by the task and finish group.

7.3.3. As requested by Civic Affairs Committee, the definition of correspondence in paragraph 11.2 of the protocol has also been updated to refer to other electronic means such as texts and tweets.

7.3.4. The revised protocol is set out at Appendix B.

7.4. Public Speaking

7.4.1. The task and finish group was invited to review the public speaking scheme, which provided for people who live, work, study or own property in the district to speak at meetings, to enable other people or partners with a connection to the Council to speak at the discretion of the Chair.

7.4.2. The task and finish group recommend the inclusion of the additional wording set out in paragraph 1.2 of the revised scheme which gives the Chair discretion to allow any other person to speak where they are satisfied that that person is affected by, or has a legitimate interest in, the business of the Council.

7.4.3. The task and finish group recommend some additional amendments to require that questions and statements should be relevant to the remit of the body to which they are addressed and to give flexibility as to which member may respond to public questions, to bring the provisions in line with those in Council Standing Orders for responses to Members' questions.

7.4.4. The revised Public Speaking Scheme is at Appendix C.

7.5. Petitions

7.5.1. Civic Affairs Committee asked the task and finish group to review the number of signatures required for petitions, noting that some authorities had very low thresholds. It was also suggested that officers should further review the practice elsewhere.

7.5.2. Currently the Council's threshold is 50 for ordinary petitions and 100 (or 50% of the electorate of a particular parish for a petition relating to a single parish) for petitions to trigger debates at a Council meeting. No change was proposed to these thresholds as part of the Constitution Review.

7.5.3. Officers conducted a further review of the practice of other authorities and a summary of this was presented to the task and finish group (Appendix D1). The task and finish group noted that some authorities had a lower petition for "ordinary" petitions (some specified 10 as the number of signatures required to "constitute a petition"). However, many authorities surveyed had higher thresholds for the number of signatures required for a petition to trigger debate at a Council meeting, with thresholds ranging from 10 to 3,000. The task and finish group noted that the Council's current threshold was amongst the lower thresholds and taking account of the information presented, was not minded to recommend lowering the current thresholds.

- 7.5.4. Further changes to the scheme are however recommended to enable Ward Members to hand in petitions on behalf of petitioners at Council meetings.
- 7.5.5. Additionally, the task and finish group have recommended changes to the scheme to cover the position with e-petitions which are generated via third party websites.
- 7.5.6. The recommended Petitions Scheme is set out at Appendix D2. It may be prudent for both the new Public Speaking and Petitions Schemes to be monitored following their implementation with a view to them being reviewed by this committee in the event that any operational issues should arise.

7.6. Council Standing Orders

- 7.6.1. The task and finish group is recommending further changes to Council Standing Orders to reflect amendments to the petitions and public speaking schemes and to address certain procedural issues raised by the Chairman of the Council.
- 7.6.2. The updated Council Standing Orders are attached at Appendix E.

7.7. Anti-Theft, Fraud and Corruption Policy

- 7.7.1. The task and finish group have reviewed whether the Anti-Theft, Fraud and Corruption Policy should continue to form part of the Constitution. Members noted that the Whistleblowing Policy, which is complementary to the Anti-Theft, Fraud and Corruption Policy, does not currently form part of the Constitution.
- 7.7.2. The task and finish group additionally noted that the Financial Regulations, which are in Part 4, of the Constitution, already contain the following provisions in relation to the Anti-Theft, Fraud and Corruption Policy and the Whistleblowing Policy:

“The Chief Finance Officer shall be responsible for ensuring that the Council’s Anti-Theft, Fraud and Corruption Policy and Whistleblowing Policy is subject to periodic review and, where deemed appropriate, he/she shall make recommendations for improvement to Council. Each Chief Officer or Director shall be responsible for ensuring his/her staff are aware of the existence of the policies and of their contents”
- 7.7.3. On that basis, the task and finish group was assured that appropriate provisions for ensuring that the policies are maintained and reviewed are contained in the Constitution but that the policies themselves need not form part of the Constitution. The task and finish group did however agree that in requesting the Audit and Corporate Governance Committee to review the Anti-Theft, Fraud and Corruption policy, it should also be asked to consider how this policy and the Whistleblowing Policy should best be published and promoted.

8. Organisational Review

8.1. The completion of the organisational review has necessitated revisions throughout the Constitution to reflect revised structures and job titles.

8.2. The task and finish group considered and endorsed specific revisions to:

8.2.1. Articles (including Article 12 (Officers)) (Appendix F1)

8.2.2. Part 3 - Responsibility for Functions (Terms of Reference of Employment and Staffing Committee (and panels)) (Appendix F2)

8.2.3. Part 3 – Responsibility for Functions (Scheme of Delegation) (Appendix F3)

8.2.4. Officer Employment Procedure Rules. (Appendix F4).

9. General Amendments

9.1. The task and finish group has agreed to the incorporation of a number of further general amendments to the draft Constitution including:-

9.1.1. Adding back into Article 5 (Chairing the Council), at the request of the Chair of Council, as one element of the role of the Chair “To be the conscience of the Council”;

9.1.2. Making explicit the exclusions from the powers of this Committee to review the Constitution;

9.1.3. Grammatical and typographical amendments and changes to use more gender neutral language where possible.

10. Licensing Delegations

10.1. A number of changes to the Licensing Committee delegations have been recommended to bring them in line with statutory guidance relating to the Licensing Act 2003 and the Gambling Act 2005. Licensing Committee has been informally briefed on these changes and members of the committee were content for them to form part of the revised Constitution to be recommended to Council.

11. Scrutiny Review

11.1. The Centre for Public Scrutiny is currently undertaking a review of the effectiveness and efficiency of the Council’s scrutiny function. The review has just begun, and it is anticipated that it will conclude in late March. Unfortunately, this means that any revisions that impact on the Constitution will not be available before Full Council on 2 April. The Centre for Public Scrutiny has advised that their reviews do not routinely result in changes in governance arrangements. However, if any changes do result, it may be necessary to take these directly to Council in May in order to avoid any further delay in presenting the Constitution to Council.

12. Conclusion

12.1. The task and finish group has now completed its review of the Constitution and its recommendations are set out in the report at Appendix G. The revised draft Constitution has been circulated separately as Appendix H (clean) and Appendix I (“compare” version showing content (but not formatting) changes) will be published on the Council’s website, with hard copies available on request. The Ethical

Handbook is attached at Appendix J (compared versions of documents in the Ethical Handbook may be found in Appendix I) and the Public Speaking and Petitions Schemes at Appendix K1 and K2 respectively. It should be noted that the further changes recommended by the task and finish group, as referred to in paragraph 7, have been incorporated into the latest draft of the Constitution.

12.2. Members are also asked to note that as the Joint Development Control Committee terms of reference (Cambridge Fringes) have been adopted jointly with Cambridge City Council only formatting changes have been made to the document. Additionally Part 6 (Members' Allowances Scheme) has yet to be updated with the changes agreed at Council on 20 February 2020.

12.3. It is proposed to insert the page numbers into the contents sheets and indexes prior to submission of the draft Constitution to Full Council.

Options

13. The Civic Affairs Committee could:

- (a) recommend the revised Constitution for adoption by the Council, with or without amendment; or
- (b) determine to maintain the status quo and not amend the Constitution; or
- (c) identify areas where it wishes the Constitution Review Task and Finish Group to undertake further work.

Implications

14. In the writing of this report, taking into account financial, legal, staffing, risk, equality and diversity, climate change, and any other key issues, the following implications have been considered:-

Legal

15. The Council is required to prepare and keep its Constitution up to date and to make it available to the public, in accordance with Section 37 of the Local Government Act 2000. Additionally, it is required by Section 38 of the Act to have regard to any guidance issued by the Secretary of State.

Equality and Diversity

16. The Council will be required by September 2020, by virtue of the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018, to ensure the accessibility of information published on its website. These accessibility requirements have been taken into account in reformatting the revised Constitution.

17. The task and finish group has had regard to the equality duty requiring the Council to tackle stereotypes and to consider whether the use of certain language within the Constitution reinforces inappropriate “norms”.

Consultation responses

18. All Members and officers were invited to submit comments on the Constitution during the autumn of 2018. The Leader and a number of committee chairmen have also been consulted upon the proposals under consideration as part of the review, in so far as they relate to their area of responsibility and invited to participate in meetings of the task and finish group.

Effect on Council Priority Areas

A modern and caring Council

19. The review has provided the opportunity to bring the Constitution up to date, to review it against best practice and new accessibility requirements and to consider whether it remains fit for purpose.

Background Papers

Modular Constitutions for English local authorities (January 2000)

Appendices

Appendix A: Contract Regulations
Appendix B: Protocol on Member/Officer Relations
Appendix C: Public Speaking Scheme
Appendix D1: Petitions Thresholds
Appendix D2: Petitions Scheme
Appendix E: Council Standing Orders
Appendix F1: Articles
Appendix F2: Part 3 – Responsibility for Functions
Appendix F3: Part 3 - Scheme of Delegation (Table 7)
Appendix F4: Officer Employment Procedure Rules
Appendix G: Report of the Constitution Review Task and Finish Group
Appendix H: Revised Draft Constitution of South Cambridgeshire District Council (Clean)
Appendix I: Revised draft Constitution (Compare version)
Appendix J: Ethical Handbook
Appendix K1: Public Speaking Scheme (clean)
Appendix K2: Petitions Scheme (clean)

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