

REPORT TO: Council

21 May 2020

LEAD OFFICER: Monitoring Officer

Adoption of Revised Constitution

Executive Summary

1. The Civic Affairs Committee, at its meeting held on 3 March 2020, received and considered the report of the Constitution Review Task and Finish Group and agreed to recommend the Council to adopt the revised Constitution, Ethical Handbook, Public Speaking Scheme and Petitions Scheme with effect from the new Municipal Year.
2. The report of the Constitution Review Task and Finish Group, which highlights the key changes to the Constitution, is set out at Appendix A to this report. The revised Constitution is attached at Appendix B; the Ethical Handbook at Appendix C; the Public Speaking Scheme at Appendix D1 and the Petitions Scheme at Appendix D2.

Recommendations

3. It is recommended that Council:-
 - (a) Adopts, subject to (b) below, the revised Constitution (Appendix B), Ethical Handbook (Appendix C), Public Speaking Scheme (Appendix D1) and Petitions Scheme (Appendix D2) with effect from 22 May 2020.
 - (b) Notes that, for the conduct of virtual meetings, the Constitution may be superseded by the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 and any revised Standing Orders agreed by the Council relating to virtual meetings.
 - (c) Authorises the Chief Executive, after consultation with the Chairman of the Council, to make any further typographical or minor amendments to the Constitution prior to its publication.

Reasons for Recommendations

4. To enable the adoption of the revised Constitution which has been subject to comprehensive review and updating by the Constitution Review Task and Finish Group and has been recommended for adoption by the Civic Affairs Committee.

Details

5. The Civic Affairs Committee, at its meeting held on 26 June 2018, agreed to establish a task and finish group to undertake a comprehensive review of the Council's Constitution, to include its codes and protocols and to submit recommendations back to the committee for onward recommendation to Council.
6. At its meeting on 3 December 2019, Civic Affairs Committee considered the report of the Constitution Review Task and Finish Group, together with the first draft of the revised Constitution. The Civic Affairs Committee requested that the task and finish group give further consideration to a number of issues and to report back to a future meeting of the committee.
7. The task and finish group reviewed the matters referred back to it and reported to the meeting of the Civic Affairs Committee on 3 March 2020. Having considered the report of the task and finish group the committee approved the group's recommendations and agreed to recommend the Council to adopt the revised Constitution, Ethical Handbook, Public Speaking Scheme and Petitions Scheme with effect from the new Municipal Year. The Chief Executive, after consultation with the Chairman and Vice-Chairman of the Committee, was authorised to approve any typographical or other minor changes to the draft Constitution prior to its submission to Council.
8. Members are advised that the opportunity was been taken to arrange for external solicitors, Bevan Brittan LLP, to undertake an independent review and "health check" of the draft Constitution prior to its submission to full Council.
9. The solicitors concluded that compared to a number of other Constitutions they had seen and reviewed, the Council's Constitution was "relatively short, well drafted and reasonably clear".
10. The Council was however recommended to make a few changes, either to reflect changes in legislation or to improve the clarity of the document. The Chairman and Vice Chairman of Civic Affairs Committee were consulted upon the changes proposed and were content for the Chief Executive to amend the draft Constitution to incorporate the changes recommended. The Constitution Review Task and Finish Group was also consulted on these changes. A copy of the schedule of amendments is attached at Appendix E and these have been incorporated into the revised draft Constitution at Appendix B. The Chairman also highlighted a number of typographical or grammatical errors for correction and these have been reviewed. Members are asked to notify the Democratic Services Team Leader of any further typographical or grammatical errors which they may identify in the document.
11. A report elsewhere on this agenda invites the Council to confirm amendments to the Constitution to reflect powers and functions delegated by the Planning Committee. The amendments, agreed by Planning Committee on 12 February, have been incorporated into the revised Constitution but the Constitution will, of course, need to be amended to reflect any changes agreed at this meeting, A separate report on the agenda also invites the Council to review the terms of reference of the Climate and Environment Advisory

Committee. If Council approves those changes, the necessary amendments will need to be made to Table 3, Part 3, of the Constitution

12. The current COVID 19 emergency has required the Council to put in place arrangements to conduct virtual meetings as permitted by The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. It is explicit in the regulations that the powers to conduct virtual meetings apply notwithstanding any restriction in the Council's Constitution or any other rules. The regulations also permit local authorities to make standing orders or rules which may include provisions for voting; access to documents and remote access to the public and press to meetings, including participation in those meetings. A report elsewhere on this agenda includes proposed standing orders to cover virtual meetings. Additionally, the provisions of the regulations have been relied upon to make the necessary adjustments to licensing hearing regulations to enable such hearings to be conducted remotely. Members are therefore asked to note that whilst the recommendations propose implementing the revised Constitution from 22 May 2020, certain aspects of the Constitution will be superseded by the standing orders relating to the conduct of virtual meetings.

Options

13. The Council could:
- (a) adopt the revised Constitution with or without amendment; or
 - (b) Refer the draft Constitution back to the Civic Affairs Committee for further review.

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: Report of the Constitution Review Task and Finish Group
- Appendix B: Revised Draft Constitution of South Cambridgeshire District Council (Clean)
- Appendix C: Ethical Handbook
- Appendix D1: Public Speaking Scheme
- Appendix D2: Petitions Scheme
- Appendix E: Schedule of recommended changes (note: these have already been incorporated into the revised draft Constitution at Appendix B)
- Appendix F: Revised draft Constitution (Compare version) (Available on line only (hard copy available on request))

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