
Meeting: General Purposes Committee
Date: 17 July 2014
Subject: Constitution Update – Maintaining the Constitution
Report of: Cllr Maurice Jones, Executive Member for Corporate Resources
Summary: The report proposes an amendment to the Constitution to enable it to be maintained as an up to date document.

Advising Officer: Melanie Clay, Monitoring Officer
Contact Officer: Mel Peaston, Committee Services Manager
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

The action proposed in the report supports the following Council priority

- Value for money – freezing council tax

by ensuring that the Council's Constitution is maintained as an up to date and fit for purpose document to inform the carrying out of the Council's business.

Financial:

1. There are no financial implications arising from the report.

Legal:

2. The legal implications are addressed within the report.

Risk Management:

3. The purpose of the Constitution is to provide a framework of rules governing the way the Council exercises its functions and takes decisions (Constitution, Part A2, paragraph 1.1). If the Constitution is not up to date, there is a risk that decisions may not be clear and transparent, which could leave the Council open to challenge.

Staffing (including Trades Unions):

4. Not applicable.

Equalities/Human Rights:

5. Not applicable.

Public Health

6. Not applicable.

Community Safety:

7. Not applicable.

Sustainability:

8. Not applicable.

Procurement:

9. Not applicable.

RECOMMENDATIONS:**The Committee is asked:**

1. **TO RECOMMEND TO COUNCIL that the Monitoring Officer be authorised to make urgent amendments to the Constitution to give effect to any decision of the Council or changes in the law, and minor amendments such as to correct errors or to ensure that the Constitution is up to date, by amendment of the Constitution at Part A5 paragraph 2.3 through the deletion of the words “after consultation with the General Purposes Committee”.**
2. **to agree to receive a report twice per year updating the Committee on any amendments which have been made to the Constitution by the Monitoring Officer.**

Keeping the Constitution up to date

10. The Constitution provides that where urgent amendments are needed to be made to it to give effect to any decision of the Council or changes in the law, or minor amendments such as to correct errors or to ensure that the Constitution is up to date, the Monitoring Officer may make these changes but only after consultation with the General Purposes Committee. (Part A5 paragraph 2.3 of the Constitution refers.)
11. Under section 37 of the Local Government Act 2000 the Council is required to have, and maintain as up to date, a constitution, and the Monitoring Officer has a duty under section 5 of the Local Government and Housing Act 1989 to ensure the Council operates appropriately and in compliance with the law. It follows that the Monitoring Officer must be satisfied that the Constitution is up to date and most local authorities delegate powers to the Monitoring Officer to enable them to give effect to this. This Council included the wording given at paragraph 10 above in its Constitution when it came into being in 2009, and also included the following wording within the terms of reference of the General Purposes Committee:

12. Part E2 Oversight of the Council's constitution, including approving paragraph 5.1.9 any changes that may be required on the advice of the Monitoring Officer.
13. It is suggested that to keep the document up to date and fit for purpose, urgent or minor amendments should be made as soon as possible. The requirement to consult the Committee builds in delay.
14. Changes of the nature described in paragraph 10 above do not require Members' discernment or evaluation, such as to correct a spelling or typographical error or to quote the correct piece of legislation. For example, the last meeting of General Purposes Committee was consulted on amending an incorrect number at Part K, which stated that the Special Responsibility Allowance for Deputy Executive Members was in the sum of 6,6,267.48 – clearly a typographical error, but the Monitoring Officer did not have the power to amend it without prior consultation with the Committee.
15. Authorising the Monitoring Officer to make such amendments without requiring consultation with the Committee would enable corrective action to be taken more quickly.

Maintaining the Committee's awareness of amendments

16. It is suggested that changes should be gathered together and made on a monthly basis, where necessary, enabling updating the Constitution to be managed in a timely way.
17. An audit trail would be maintained through the Monitoring Officer's personal sign-off of the amendments to be made. This document would be retained on file as a matter of record. A compendium of the changes which have been made, set out as a schedule in the format currently provided when the Committee is consulted, would be attached to a report to the Committee on a six-monthly basis to enable the Committee to maintain an overview of the document as it evolved.

The Constitution as a dynamic document

18. The Constitution was drafted at a time when there was less familiarity with electronic documents and a more general reliance on paper documents. Now that it is customary for documents of many kinds to be accessed electronically, there is no longer a need for numerous paper copies of the Constitution to be circulated following any amendments, which has a cost, and for individuals to maintain their own individual copy. This is done for them now by keeping the electronic document on the Council's website up to date, and the public as well as Members and Officers are advised to use that one.
19. Arrangements which enable the electronic document to be kept current should therefore be more rigorous than in the past.

Business of General Purposes Committee

20. In order to use the Committee's time to best effect, an attempt has previously been made to confine consideration of all amendments to the Constitution to only two meetings per year. This has built in delay to updating the Constitution.
21. Asking the Committee to consider proposed amendments to the Constitution at every meeting would not make best use of the Committee's time, as most of the amendments are minor, and fall into the category which the Constitution currently provides can be carried out by the Monitoring Officer following consultation with the Committee.

Conclusion

22. In view of the reasons set out above, it is suggested that the Monitoring Officer should be authorised to carry out urgent and minor amendments to the Constitution without the need for prior consultation with the Committee.
23. This would be effected by deleting the words "after consultation with the General Purposes Committee" at Part A5 paragraph 2.3.
24. Any other proposed changes to the Constitution would be brought to the Committee for consideration, in accordance with the current practice.

Appendices:

None

Background Papers: (open to public inspection)

None