



Standards and Constitutional Oversight Committee

Date:	Tuesday, 26 November 2013
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. APOLOGIES FOR ABSENCE

2. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members are asked to consider whether they have any disclosable pecuniary or non pecuniary interests in connection with any items of business on this agenda and, if so, to declare them and state the nature of the interest.

3. MINUTES (Pages 1 - 4)

To approve the accuracy of the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 17 July 2013.

4. REVISIONS TO THE COUNCIL'S CONSTITUTION (Pages 5 - 12)

The report of the Strategic Director – Transformation and Resources is attached, together with Appendix 1 (Proposed changes to the Constitution to be approved under the Standards and Constitutional Oversight Committee powers)

Appendix 2 (Proposed changes to the Constitution to be recommended to Council) will be circulated separately.

5. NOMINATIONS FOR A CROSS-PARTY STANDARDS WORKING GROUP

6. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Wednesday, 17 July 2013

Present:

Councillor WJ Davies (Chair)

Councillors	M McLaughlin	L Fraser
	RL Abbey	G Ellis
	D Roberts	T Harney
	J Salter	

Independent Persons	Mr D Burgess – Joyce
	Mr B Cummings
	Mr C Jones
	Professor RS Jones

1 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had any disclosable pecuniary or non pecuniary interests in connection with any items on this agenda and, if so, to declare them and state the nature of the interest.

No such declarations were made.

2 INTRODUCTIONS AND CHAIR

The Chair welcomed everyone to the first meeting of the new Committee for the new municipal year and asked that all members introduce themselves for the benefit of those new to the Committee.

Councillor Fraser drew the Committee's attention to Article 9.2(c) of the Constitution which stated that, 'The committee chairperson shall be determined by the Standards and Constitutional Oversight Committee at its first meeting in the Municipal year'. She commented that although Council had appointed Chairs at its annual meeting in May, it was incumbent on this Committee to follow those rules laid down in the Constitution when it was expecting Members on other committees to do so themselves.

Councillor Fraser therefore moved and having been seconded by Councillor Salter, it was –

Resolved – That Councillor Bill Davies be appointed Chair of this Committee.

3 **MINUTES**

The Committee were requested to approve the accuracy of the minutes of the meeting of 18 March 2013.

Resolved – That the minutes of the meeting of 18 March, 2013, be approved.

4 **REVIEW AND UPDATE ON THE COUNCIL'S ETHICAL FRAMEWORK**

The Head of Legal and Member Services submitted a report which gave a review of the Council's Ethical Framework relating to Member conduct. The details for arrangements for dealing with, investigating and making decisions in relation to standards complaints were also set out in appendices to the report.

The new standards regime had now been in place for a little over 12 months and it was an opportune time for this Committee to review the arrangements and consider whether any amendments should be made or alternative arrangements considered given the Council's statutory duty to promote and maintain high standards of conduct amongst Members.

By way of summary, five complaints had been received under the new Standards Regime (i.e. since 1 July 2012) of which there remained two 'live' matters. A summary of the complaints was attached in an appendix to the report.

The Committee was asked to consider whether a cross-party Standards Working Party should again be established to undertake the review of the Standards Regime and report back any recommendations to this Committee for consideration.

A request had been received from the Merseyside Recycling and Waste Authority that the Council's Members' Code of Conduct be amended to include a requirement that members appointed to outside bodies (such as the MRWA) be required to comply with any relevant Codes of Conduct of those outside bodies. Details of the resolution passed by the MRWA, its Code of Conduct and procedure for handling complaints made under their Code was appended to the report.

Responding to comments from Members, the Head of Legal and Member Services acknowledged the need for a robust standards framework which Members and the public could rely on and which was easily understood and accessible. He also explained the procedure for dealing with an individual Member who might be in breach of the Code of Conduct on a more frequent basis.

In respect of the role of the Committee and ‘considering reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found ...’ the Head of Legal and Member Services stated that there was a need to ensure that the terms of reference of other Committees were not encroached upon as not all external inspections would fall within this Committee’s remit. He suggested that he could bring a report back to the Committee setting out the exact remit.

In the ensuing discussion on the role of the Committee a Member suggested the need to be fully aware of all that was going on which affected the standards of the Council. A Member cautioned against straying into areas which fell within the remit of other committees such as the Audit and Risk Management Committee and the need to avoid duplicating work. A Member suggested that with the Committee having a constitutional oversight role it should also be involved in reviewing governance arrangements.

On a motion by Councillor M McLaughlin, seconded by Councillor D Roberts, it was –

Resolved – That this Committee:

- (1) Notes the report;**
- (2) Establishes a cross-party Member Working Group in accordance with the Terms of Reference set out at Appendix 7 to the report, to review the current Standards Regime and report back its recommendation to this Committee for consideration.**
- (3) Subject to (2) above, determines whether Council be recommended to amend the Members’ Code of Conduct to include an obligation that Members who are appointed to an outside body be required to comply with any relevant Code of Conduct of that outside body (and be subject to the body’s arrangements / procedures dealing with any complaints made under the Code).**
- (4) Receives a report back with clear information on the work of this committee and how it fits in with the terms of reference of other committees.**

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE 26 NOVEMBER 2013

SUBJECT:	Revisions to the Council's Constitution
WARD/S AFFECTED:	All
REPORT OF:	Strategic Director – Transformation and Resources
RESPONSIBLE PORTFOLIO HOLDER:	Councillor Ann McLachlan
KEY DECISION	No

1.0 EXECUTIVE SUMMARY

1.1 The Council's Constitution is a 'living document' which needs to be kept under review to reflect changes in the Council and changes in the way the Council delivers services and does business. Regular review helps to:

- Ensure the Constitution remains relevant and effective;
- Identify changes required to ensure clarity and consistency; and
- Provide an opportunity for continuous improvement of the Council's constitutional arrangements.

1.2 The Standards and Constitutional Oversight Committee is responsible for keeping the Council's Constitutional arrangements under review. It can make minor changes to the Constitution as it considers appropriate and make recommendations to Council with regards to changes. Any changes made should be made in order to better achieve the purposes set out in Article 1 – The Constitution of the Council's Constitution.

1.3 The Monitoring Officer has carried out a preliminary review of the Constitution under his delegated powers and very minor changes are to be made to address for example simple continuity issues, changes/corrections to officer titles and other names.

1.4 This report sets out proposals to amend the Council's Constitution by the Committee itself or to make a recommendation to Council for approval so as to ensure that the Constitution remains effective. The review has centred on addressing continuity, updating titles of bodies and officers, updating references to legislation, and addressing specific operational issues that have been identified. There are two Schedules appended to this report. Schedule 1 contains proposed amendments to the Constitution that are considered to be of a minor nature, and therefore approval of those changes falls within the remit/authority of this Committee. Schedule 2 contains other proposed amendments to the Constitution that are considered more appropriate to be approved by Council.

- 1.5 A whole scale review of the Constitution will commence in early January 2014. A Members survey will be undertaken as part of this exercise which will canvass the views of all Members on not only the effectiveness of the current Constitutional arrangements, but also on what each Member considers could/should be improved. The outcome of this review together with recommendations/proposals on changes to the Council's Constitution will be reported back to this Committee and/or Cabinet for consideration.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 Under the Council's Improvement Plan, it is committed to improving its governance arrangements. A commitment was given to review the Council's Constitution, with particular focus of the Schemes of Delegation. The Peer Challenge also emphasised the importance of the constitutional review and the need for clarity on the demarcation between Members' and Officers' roles and responsibilities. A detailed review of the Constitution was undertaken which focused on key elements of the Constitution.

- 2.2 The Cabinet at its meeting on 18 April 2013 considered a report of the Chief Executive with various appendices including a revised Constitution and a summary of the amendments from the previous version. The principles underlying the review were:

- To only make changes where necessary.
- To ensure compliance with the legal requirements for a Cabinet and Leader model of government in the Council.
- To give effect to assurances given to the Improvement Board in particular in relation to the Schemes of Delegation.
- To follow the principles set out in Article 1 of the Constitution, (set out in more detail below).

- 2.3 The Cabinet was advised that Council need to understand the importance of ensuring the Constitution provided an effective framework for encouraging health debate and challenge. It was appropriate that clarity on the roles of Members and Officers was provided. The Council's scrutiny function needed to be strengthened/enhanced so that it could provide effective oversight/challenge and importantly also positively influence policy formation. A new model of neighbourhood working was proposed to enable the Council deliver its' vision and support Members in their role as community champions. The new arrangements aimed to encourage greater public engagement and awareness.

- 2.4 The Cabinet recommended that Council agrees to:

- (1) adopt the revised constitution as set out as Appendix 3 to the Chief Executive's report;
- (2) note that additional consequential changes will need to be made over the next year in the light of operating the new Policy and Performance Committees and Constituency Committee arrangements;

- (3) rename the Standards Committee the Standards and Constitutional Oversight Committee; and
- (4) delegate the following additional responsibilities to the Standards and Constitutional Oversight Committee:

To keep the council's constitutional arrangements under review and to make such recommendations to the Council as it considers appropriate for ways in which the Constitution should be amended in order better to achieve the purposes set out in Article 1 (set out at paragraph 2.23 of the Chief Executive's report); and

oversee and agree such minor changes to the Council's Constitutional arrangements as are recommended by the Monitoring Officer from time to time. (Minute No. 241 refers)

- 2.5 The Council at its meeting on 30 April 2013 agreed the Cabinet's recommendations. (Minute No. 146 refers) The new Constitution came into force from the beginning of the 2013/14 Municipal Year.

SUMMARY OF PROPOSED KEY AMENDMENTS

- 2.6 *Council Procedure Rules:* members have now had the opportunity to experience the operation of Council meetings under the new arrangements. Whilst detailed comments from Members will be sought as part of the substantive review of the Constitution in early 2014, it has been recognised that the arrangements for an amendment(s) to Notices of Motion needs to be revised to avoid adjournments of the Council meeting that are required to allow time for consideration of an amendment(s) that is only shared once the relevant Notice of Motion is moved. Schedule 2 includes an amendment that requires all proposed amendments to Notices of Motion at ordinary Council meetings to be submitted and circulated prior to the Council meeting.
- 2.7 *Constituency Committees:* The Cabinet at its meeting on 23 May 2013 considered in detail the proposed operating model for neighbourhood working in Wirral. This followed agreement by the Council on the broad scope of this model at its meeting on 11 February 2013 (Minute No. 108 refers) and the revision of Article 10 of the Council's Constitution at its meeting on 30 April 2013 (Minute No. 146) to reflect the creation of four area committees, to be known as Constituency Committees, co-terminus with constituency areas.
- 2.8 The report set out proposals for the governance and membership of Constituency Committees, as well as their role and function. These proposals had been developed on the basis of ensuring that Constituency Committees were fully enabled to take a leadership role in influencing and shaping the services which were available and delivered in their area by having devolved powers, transparent governance arrangements and appropriate membership. They also sought to ensure that citizen engagement and empowerment in transforming the areas where they lived was continuously improved. (Minute No. 250 refers)

- 2.9 It was agreed that when the detail of Constituency Committees arrangements were finalised the Council's Constitution would be amended to reflect any additional changes as necessary.
- 2.10 The Constituency Committees have now begun to meet and are each considering Article 10 relating to their terms of reference with a view to ensuring that there is scope and the necessary flexibility to drive forward the constituency working model and deliver the functions to be devolved to them in due course. At its first meeting, each Committee is agreeing to establish a Task and Finish Group to develop its operating Handbook and to make recommendations on any amendments to Article 10. These recommendations will be presented to the Standards and Constitutional Oversight Committee (or Cabinet) for consideration in due course.
- 2.11 However, as the Constituency Committee model has evolved over the previous few months and greater clarity now emerging as to how these Committees will operate, it is necessary to make some minor amendments to the current terms of reference of (Article 10 of the Constitution). Schedule Two appended to this report details those minor changes.
- 2.12 *Standards and Constitutional Oversight Committee Terms of Reference:* This report also seeks to amend the terms of reference of this Committee (Article 11) to include delegated responsibility and power to act on behalf of the Council as trustee of the E.F Callister Youth Club ("the Club"). The Club was established over 50 years ago and in 1960 the then Secretary of State for Education nominated The County Council of Birkenhead as the Trustee for the Club. That responsibility transferred to Wirral Council in 1974. There are separate obligations, responsibilities and powers that must be undertaken and discharged by the Council and it is proposed that this Committee, sitting as trustee of the Club, now undertakes and discharges those obligations, responsibilities and powers on behalf of the Council. The role to be undertaken is in essence the same as the Council's Pensions Committee undertakes in acting on behalf of the Council as trustee of the Merseyside Pension Fund. Whether this Committee continues to fulfil this role in the long term can be considered as part of the wholesale review of the Constitution to be undertaken in early 2014.
- 2.13 *Schemes of Delegation:* These Schemes of Delegation make reference to various legislation. A refresh of this legislation has been undertaken and it is being proposed that legislation that is no longer applicable is deleted; or minor typographical errors corrected; or new legislation that is addressed under the general delegated powers is expressly stated instead.
- 2.14 *Call-In Procedure:* Minor changes are proposed that clarify the call-in period (which remains as '5 working days after publication of the decision') and enables the Committee considering the 'call-in' to be convened within a more realistic timescale, namely within 15 working days rather than 7 working days.

3.0 RELEVANT RISKS

- 3.1 Some inconsistencies and typographical errors have been identified which need to be amended to ensure there is no confusion or misunderstanding of the Council's Constitution.
- 3.2 The Council is committed to continuous improvement of its constitutional arrangements and regular and timely review of the Constitution to mitigate any risks that may arise. This approach is consistent with good practice.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 None

5.0 CONSULTATION

- 5.1 The views of all Members on the Constitution and the new arrangements will be sought are part of the wholesale review of the Constitution to be commenced in early Jan.
- 5.2 The amendments to the Constitution proposed are considered relatively minor and uncontroversial and therefore there has been limited consultation.

6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

- 6.1 None

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 7.1 None.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 8.1 Support comes from within existing resources which have been realigned to meet the new requirements.

9.0 LEGAL IMPLICATIONS

- 9.1 As set out in the report.

10.0 EQUALITIES IMPLICATIONS

- 10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality

No – the changes proposed do not require an EIA to be undertaken.

11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

- 11.1 None

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 None

13.0 RECOMMENDATIONS:

That:

- 13.1 the proposed changes set out in Schedule 1 to this report be approved and the Council's Constitution be amended accordingly;
- 13.2 Council be **recommended** to approve the proposed changes to the Council's Constitution set out in Schedule 2 to the report; and

14.0 REASON/S FOR RECOMMENDATION/S

14.1 It is good practice to keep the Constitution under review and ensure that it remains fit for purpose.

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APPENDICES

- Appendix 1 – Proposed changes to the Constitution to be approved under the Standards and Constitutional Oversight Committee powers.
- Appendix 2 - Proposed changes to the Constitution to be recommended to Council.

BACKGROUND PAPERS/REFERENCE MATERIAL

Relevant Acts and Regulations

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	18 April 2013
Extraordinary Council	30 April 2013
Cabinet	23 May 2013

Schedule 1 – For the approval of the Standards and Constitutional Oversight Committee

Page No. (of the Constitution)	Section Changed	Description of amendments/Update	Authority for Change
Throughout document	As required/necessary	<p>Update names of Officers All officer names throughout the Constitution be amended by the Head of Legal & member Services to reflect/confirm the correct/updated name of the officer(s) with responsibility for relevant power, duty and responsibility referred to in the Constitution.</p>	Under delegated powers of the Policy and Performance Co-ordinating Committee
148/149	Access to Information Procedure Rules	<p>Paragraph 13 – Forward Plan – add in additional paragraph (13.3) as follows:</p> <p>“(13.3) In respect of decisions relying on exempt information the reasons shall be given for the business to be considered in private.”</p> <p>Paragraph 14.1 (a) – General Exception</p> <p>Replace all references to Co-ordinating Committee with “relevant Policy and Performance Committee”.</p> <p>Paragraph 15 – Special Urgency</p> <p>Replace wording with:</p> <p>“If by virtue of the date by which a key decision must be taken Rule 14 (general exception) cannot be followed then the decision can only be taken if the decision maker obtains the agreement of the Chair of the relevant Policy and Performance Committee if she/he is unable to act, the Mayor (or in his/her absence the Deputy Mayor) that taking the decision is urgent and cannot be reasonably be deferred.</p> <p>As soon as is reasonably practical after the decision maker has obtained agreement, a notice shall be published stating that a</p>	Under delegated powers of the Policy and Performance Co-ordinating Committee

Schedule 1 – For the approval of the Standards and Constitutional Oversight Committee

		<p>decision is urgent and the reasons why it cannot be reasonably deferred.”</p> <p>Insert new paragraph 20 as follows:</p> <p>“20. Where any conflict arises between the Access to Information Procedure Rules stated in this Constitution and the Access to Information (England) Regulations 2012, the said Regulations shall prevail.”</p>	
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