

WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE 26 NOVEMBER 2013

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| 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:* There 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 |