

## **CONSTITUTION AND STANDARDS COMMITTEE**

**Thursday, 13 April 2023**

<b>REPORT TITLE:</b>	<b>AMENDMENTS TO THE CONSTITUTION</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

### **REPORT SUMMARY**

This report provides a summary of the discussions held by the Governance Working Group in respect to proposed changes to the Constitution. The proposed changes are in relation to:

- Sharing written responses to public questions with the public (SO 10.9 (c) and 12.6 (c))
- Sharing of motions and amendments without notice (SO 14(h))
- Acceptance of grant funding by Officers
- Questions to members appointed to Joint Authorities at Council meetings (SO12.1)

This matter affects all wards. This is not a key decision.

The report contributes to the delivery of all five Wirral Plan 2021-2026 Priorities by ensuring that the Council's decision-making process is as effective as possible.

### **RECOMMENDATION/S**

Constitution and Standards Committee is recommended to agree that the suggested amendments to the Standing Orders as detailed in sections 3.2 to 3.5 of the report be incorporated into the Constitution presented for approval at the Annual Council Meeting in May 2023.

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Throughout the Municipal year 2022/2023 a number of matters were drawn to the attention of the Monitoring Officer by Members, Officers and Members of the public in respect to the scheme of delegation and other aspects of the Constitution. The Monitoring Officer presented a summary report to the Governance Working Group on 23<sup>rd</sup> March 2023 and the outcomes of that working group are presented in sections 3.2 to 3.5 of the report for consideration and approval.

### 2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Constitution & Standards Committee could decide that having considered the matters referred to in section 3.2 to 3.5 of the report, that they do not deem it necessary to make a recommendation to the Council to amend the Constitution and that they remain unchanged.

### 3.0 BACKGROUND INFORMATION

- 3.1 At the meeting Governance Working Group on 23<sup>rd</sup> March 2023, Members considered four issues and suggested changes to the Constitution as follows:-

- 3.2 The Constitution as drafted doesn't allow members of the public to see written responses to Public and Member Questions

Members were informed that this issue could be resolved by amending SO 10.9(c) and 12.6 (c) as follows:

10.9(c) a written answer to be provided later to the questioner, where the reply cannot conveniently be given orally, in which circumstance the councillor questioned will arrange for the written response to be provided to the questioner and circulated to all members within 10 working days thereafter **and included as an addendum to the Minutes.**

12.6(c) a written answer circulated to Members of the Council either during the meeting at which the question is asked or subsequently, in which circumstance the Member questioned will arrange for the written response to be sent to all Members within 10 working days thereafter **and included as an addendum to the Minutes.**

**The Working Group agreed that this proposal should be referred to Council for approval.**

- 3.3 Sharing of Motions and Amendments without Notice

The Working Group heard that this related to SO 14(h) of the Constitution which related specifically to Motions which could be moved without notice and was not to be confused with SO13 *Motions on Notice*.

The Working Group considered that it was good practice to share motions and amendments in advance of a Committee meeting but recognised that there would be

occasions when a Political Group or individual Member would not wish to do so. The Working Group noted that it was also not a legal requirement to do so. The following amendment was suggested:

14(h) to amend a motion (members are strongly encouraged, where possible, to share motions and amendments in advance with fellow Committee Members in advance of the meeting)

**The Working Group agreed that this proposal should be referred to Council for approval.**

### 3.4 Overview and Scheme of Delegations of Authority to Officers – Acceptance of Grant Funding

The Working Group heard from the Director of Law and Governance that there was no explicit authority for Chief Officers to accept grant funding contained in the Officer Scheme of Delegation. She expressed the view that the insertion of a further clause would enable more effective and efficient decision making and would not negate the oversight enjoyed by Members under the existing scheme. It was suggested that the following be added:

Part 3(c) Overview and Scheme of Delegations of Authority to Officers

(d): In respect to the receipt of grant funding, express delegation is given to the Section 151 Officer. Relevant Chief Officers will subsequently report the acceptance of the grant funding to the appropriate Committee. Spend of grant funding will be dealt with in accordance with sections 2(a) to 2(c) above.

**The Working Group agreed that this proposal should be referred to Council for approval.**

### 3.5 Dealing with Questions to Members Appointed to Joint Authorities At Council

The Head of Democratic and Member Services outlined the requirements of Section 41 of the Local Government Act 1985 which sets out the requirement for the Council to make arrangements to enable questions on the discharge of functions of a joint authority, to the members appointed to it. He explained that the current provision in the constitution did not strictly comply with the requirement as SO 12.1 stated:

*A Member of the Council may ask the Leader or the Chair of a Committee or any representative of the Council on the Combined Authority any question without notice upon an item of the report of a committee or from the Combined Authority when that item is being received or under consideration by the Council.*

It was suggested that the legal requirements would be better met by incorporating questions to representatives on Joint Authorities under SO12.2 which would result in the following amendments to the Constitution:

SO12.1 A Member of the Council may ask the Leader or the Chair of a Committee or ~~any representative of the Council on the Combined Authority~~ any question without

notice upon an item of the report of a committee ~~or from the Combined Authority~~ when that item is being received or under consideration by the Council.

SO 12.2 Subject to Standing Order 12.4, at an Ordinary Meeting of the Council a Member may ask the Leader or Deputy Leader of the Council, the Chair of any of the Council's Committees or a Leader of a Political Group on the Council, ~~or representatives on Joint Authorities~~ questions on matters which the Council has powers or duties or which affects the area of the Council and which fall within their responsibility, ~~or which fall within the responsibility of the relevant Joint Authority~~

**The Working Group agreed that this proposal should be referred to Council for approval.**

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 There are no financial implication arising from the recommendations detailed in this report.

#### **5.0 LEGAL IMPLICATIONS**

5.1 Part 3, Section A of the constitution details those functions which are reserved to the Council Meeting. Point 2 (k) stipulates those significant changes to the Council's Constitution, include adopting and amending standing orders, Rules of Procedure, Contract Procedure Rules, Financial Regulations, Codes and Protocols that make up the Constitution.

5.2 Should the Constitution & Standards Committee conclude that the Council Procedure Rules be amended, then a recommendation must be made to the Council for a final decision.

#### **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

6.1 There are no implications arising from the recommendations detailed in this report.

#### **7.0 RELEVANT RISKS**

7.1 There are no foreseen risks arising from the recommendations detailed in this report.

#### **8.0 ENGAGEMENT/CONSULTATION**

8.1 The Governance Working Group has been consulted and recommended to proposed changes, in consultation with the Director of Law and Governance.

#### **9.0 EQUALITY IMPLICATIONS**

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.

9.2 There are no direct equality implications arising from this report.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

10.1 There are no direct environment and climate implications arising from this report

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

11.1 There are no direct community wealth implications arising from this report.

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## **APPENDICES**

None

## **BACKGROUND PAPERS**

Council Constitution

## **TERMS OF REFERENCE**

This report is being considered by the Constitution and Standards Committee in accordance with Section 11.2(a) of its Terms of Reference, to keep the Council's constitutional arrangements under review and to make recommendations as to amendments and improvements to the Council's Constitution, including the codes and protocols.

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Council	May 2022