

SLOUGH BOROUGH COUNCIL

REPORT TO: Council **DATE:** 22nd April 2014

CONTACT OFFICER: Member Panel on the Constitution
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WARD(S): All

PART I **FOR DECISION**

REVIEW OF CONSTITUTION AND RELATED MATTERS

1. Purpose of Report

To report the recommendations of the Member Panel on the Constitution (MPOC) on the Review of the Constitution for 2014/15 and agree next steps.

To report the recommendation of the MPOC on the recommendation referred to it with regard to Public Questions at budget meetings.

To report the recommendation of the MPOC on the Motion referred to it with regard to filming/webcasting meetings

2. Recommendations

The Council is requested to Resolve:

Review of Constitution

(a) That progress on the Review of the Constitution be noted.

(b) That the proposed changes to the following Sections of the Constitution be approved as set out in the attached Appendices and incorporated in the Constitution to take effect from 1st June 2014:

- Part 4.3 – Budget and Policy Framework Procedure Rules
- Part 4.6 - Financial Procedure Rules
- Audit and Risk Committee - Terms of Reference
- Employment and Appeals Committee - Terms of Reference
- Council procedure rules
- Overview and Scrutiny Procedure rules
- Overarching Scheme of Delegation to Officers (Parts 1,2 and 3).

(c) That it be noted that work on the Employee Code of Conduct and Contracts and Procurement element of the Financial Procedure Rules is ongoing and will be reported to the Council in due course.

- (d) That the actions being taken to revise the Scheme of Delegation to Officers be endorsed.
- (e) That the Head of Democratic Services be authorised to amend the current published Constitution to reflect Council Structures, legislative requirements and other administrative amendments as necessary.
- (f) That the Member Panel on the Constitution be reappointed at the annual meeting in June 2014 to monitor the effectiveness of the Constitution and consider further amendments to it.

Public Questions at Budget meetings

- (g) That no further action be taken on Councillor Smith's recommendation on Public Questions at Budget Council meetings.- paragraphs 5.41 – 5.43 refer.

Webcasting/Filming meetings

- (h) That the draft protocol for filming meetings attached at Appendix 8 be approved subject to any amendments required following the publication of the expected Regulations and any consequential changes be made to the Council Procedure Rules.
- (i) That the Curve is enabled to support webcasting meetings in the future and any budget implications of this proposal be considered in 2014/15.
- (j) That the Council does not commence webcasting of meetings before the completion of The Curve.

3. Community Strategy Priorities

None as this report is administrative in nature.

4. Other Implications

The Constitution meets the Council's requirements and incorporates all necessary legal requirements.

5. Supporting Information

Background – Fundamental Review

- 5.1 The Member Panel on the Constitution agreed that a fundamental review of the Constitution be undertaken in 2013.
- 5.2 Over time the Constitution has been amended to reflect legislative changes and good practice. The original base model has never been updated, despite a number of changes to governing legislation, the last of which was the Localism Act 2011 and whilst legislation was always changing and no model can hope to stay completely up to date, it was felt that the Constitution needed a fundamental review.

5.3 There were also concerns that:

- The Constitution did not enable the effective, efficient and proportionate decision-making which would enable the Council to act effectively in pursuit of its objectives and plans.
- The need for reflective and/or responsive revisions had resulted in proliferation of thoughts and processes with no central anchor.
- The document as it stands was not user friendly.
- There was a lack of clarity over decision making and documentation of clear audit trails.
- The document itself had become fragmented with the key sections setting out processes and procedures sometimes conflicting.
- Complementary and associated processes needed to sit together in more logical and coherent fashion – i.e financial and contract procedure rules, committee codes of conduct etc.
- There needed to be an auditable, timely system for updates.

5.4 The Panel favoured the proposal that the document should revert to being the “authority’s rule book” and be significantly shorter than the current document. The Panel agreed the following principles to inform the review:

- To make all forms of decision making as streamlined and clear as possible.
- To introduce modern best practice wherever possible.
- To make the Constitution a modern, fit for purpose, easily understandable and easily updated document.
- To simplify rules and remove duplication and conflict.
- To redraft officer delegations to empower officers to make decisions in line with corporate procedures with a robust audit trail and clear sub delegation rules.
- To consider the current Overview and Scrutiny process and structure to enhance its role and ability to scrutinise effectively.
- To review financial procedure rules and thresholds for decision making.

Progress on the Review

5.5 The Review is a significant piece of work and the Panel has met to undertake the detailed review work on the Constitution.

Updates to current Constitution

5.6 In May 2013, on the recommendation of the Panel, the Council agreed revisions to the following parts of the Constitution:

- Access to Information Procedure Rules
- Code of Conduct: 7 Principles of Public Life
- Code of Conduct for Members and Officers in relation to Planning and Licensing Matters
- Extract from Financial Procedure Rules re External Audit.

2013/14 Review

- 5.7 The Panel has met a number of times to consider the proposed amendments to various parts of the Constitution. Each part is dealt with in a separate paragraph below:

Section 4.3 Budget and Policy Framework Procedure Rules

- 5.8 Proposed amendments to the Budget and Policy Framework Procedure Rules are set out in track changes at Appendix 1.
- 5.9 A summary of the main changes proposed is set out below:
- Remove reference to Director of Resources, Housing and Regeneration and replace with S151 officer
 - Remove some of the outdated financial framework around member challenge
 - Update for changes to Council Tax and Business Rates rules

Section 4.6 - Financial Procedure Rules

- 5.10 Proposed amendments to the Financial Procedure Rules are set out in track changes at Appendix 2.
- 5.11 A summary of the main changes proposed is set out below:
- Amend responsibility from Director of Resources, Housing and Regeneration to the S151 officer for all financial matters
 - S151 officer sets the approved purchase order levels
 - Capital spend variations allowable up to 5% of the total scheme or £250k (whichever is lower)
 - Allow some ability to move capital schemes from one year to the other so long as no impact on the borrowing requirement (all via the Capital Strategy Board)
 - Include element of disciplinary proceeding being taken for not complying with the finance rules of procedure
 - Budget virements over £500k to be delegated from full Council to Cabinet
 - Responsibility for the payment of salaries and wages changed to the Director of Community and Customer Services, with amended responsibilities for the AD, Professional Services and s151 officer
 - The contracts rules of procedure have been updated but will need to be reviewed for amendment to the September Council meeting with clarity on procurement strategy, action plan and further guidance
 - Exemption requests amended so that spend over £50k on social care contracts comes to the procurement board in line with internal audit's recommendations
 - Some amendments to reflect procurement advice to come from the AD, Procurement
 - Clarify the role of the Procurement Board rather than the Director of Resources, Housing and Regeneration as an individual.

Members also requested that the Assistant Director, Procurement consider the contract procedure rules contained within Financial Procedure Rules for report back to the Panel with the aim of simplifying the rules and providing greater clarity over exemption requests and tendering processes

Audit and Risk Committee – Terms of reference

- 5.12 The Constitution provides for an annual review of the Committee's terms of reference to ensure that they are relevant and meet current and expected future needs.
- 5.13 The Council's Annual Accounts and Annual Governance Statement (AGS) are currently considered and approved by Council.
- 5.14 Guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) "Audit Committees: Practical Guidance for Local Authorities" 2005 recommends that Audit Committees assume responsibility for the approval of the AGS and the Annual Accounts. Specifically, the Committee would need to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that needed to be brought to the attention of the Council.
- 5.15 Proposed amendments to the Committee's terms of reference to reflect the changes in responsibility and best practice as outlined above are set out in track changes at Appendix 3. These amendments were reported to the Audit and Risk Committee on 13th March and were recommended to the Council for approval.

Employment and Appeals Committee – Terms of reference and Disciplinary Policy and Procedure

- 5.16 As part of the Councils 'Fit for the Future' Organisational Development Strategy a review of the policy framework for Performance Management of Staff including capability, disciplinary and grievance has been undertaken.
- 5.17 The Employment & Appeals Committee nominated Cllr Brooker to work with staff from HR in examining proposals. Following a working meeting with Cllr Brooker a proposal to amend the appeals process against dismissal has been developed. The proposal will generate a small saving in training costs and the amount of professional support provided to the panel.
- 5.18 The process to replace the current member appeal panel with an officer one has been examined in line with the revised ACAS Arbitration Conciliation Advisory Service guidance. Extract below

Appeals

An employee who wishes to appeal against a disciplinary decision must do so within five working days. The senior manager will hear all appeals and his/her decision is final. At the appeal any disciplinary penalty imposed will be reviewed.

- 5.19 The proposed amendment is to the current process whereby staff appeals against dismissal are heard by a Sub Committee of the Employment and Appeals Committee. Staff have a right of appeal against dismissal under disciplinary, redundancy and sickness policies. The proposal is that final appeals against dismissal are heard by a panel comprising a Strategic Director/Chief Executive/Assistant Director. Arrangements for Strategic Directors are still to be considered.

- 5.20 Proposed amendments to the Terms of Reference of the Employment and Appeals Committee and are set out at Appendix 4.

Council Procedure Rules

- 5.21 Proposed amendments to the Council Procedure Rules are set out in track changes at Appendix 5
- 5.22 The proposed amendments seek to simplify the Rules and give greater clarity to the rule on submission of notices of Motion.
- 5.23 In summary the proposals
- Clarify the requirement for the submission of Notices of Motion
 - Alter the timings of debate so that all speeches are three minutes
 - Remove duplication and re-order where necessary for clarity
 - Require a recorded vote on any decision relating to the budget or council tax at the Council's annual budget meeting (Regulatory Requirement)

Overview and Scrutiny Procedure Rules

- 5.24 Proposed revised Overview and Scrutiny Procedure Rules are set out at Appendix 6.
- 5.25 The new Overview and Scrutiny Procedure Rules are based on 'model' rules provided by an external law firm Dickenson-Dees, and bring together the best-working elements of Slough Borough Council's current Overview and Scrutiny Procedure rules.
- 5.26 In summary the proposals include:
- Appointment of co-optees - Panels empowered to appoint their own co-optees depending on need and having regard to the positive input an individual/organisation may make to the scrutiny process. (Note: ECS Panel statutory and agreed co-optees relating to education matters remains unchanged.)
 - Task and Finish Groups – small amendment so that membership for such groups is agreed by individual committee/panel.
 - Overview and Scrutiny Committee Terms of Reference –
 - tidying up and removal of duplication; and
 - remove option to refer a Call-in to a Panel, call-ins will be considered and resolved with by the Committee.
 - Terms of Reference of Scrutiny Panels –
 - tidying up; and
 - remove Health Scrutiny Protocol – this will be updated and held by the Scrutiny Office with copies given to Health Scrutiny Panel members at the start of the municipal year.
 - Following documents to be removed from Constitution and held by Scrutiny Office

- Protocol for Corporate Planning Framework and Service Reviews
- Health Scrutiny Guidance
- Joint East Berkshire Health Overview and Scrutiny Committee Terms of Reference
- Meetings –
 - reduce minimum number of meetings each Committee/Panel must hold each year from 6 to 4. Starting in 2015/16 only 4 meetings for each committee/panel will be programmed in, with additional meetings called as required; and
 - remove twice yearly Chair and Vice Chair Group meetings. These will be held informally in future.
- Work Programme – new paragraph setting out key principles for developing work programme.
- Agendas –
 - strengthening of process;
 - introducing form/information to be included for individual requests and Scrutiny Reviews; and
 - Process for agreeing agendas.
- Members/Officers giving account –
 - removal of list of exceptional circumstances; and
 - removal of questioning paragraph.
- Call-in (both Cabinet and Officer Delegated Decisions) –
 - introducing form/information to be included in any Call-in;
 - members required to call-in decision;
 - call-ins to be considered by Overview and Scrutiny Committee;
 - call-in considered by Chair/Vice Chair to decide whether accepted as legitimate;
 - general strengthening of process to be followed when call-in received; and
 - simplification of decisions Overview and Scrutiny Committee can take in dealing with a call-in.

Scheme of Delegation to Officers

- 5.27 The Panel was concerned that the existing Scheme did not consistently enable, efficient and proportionate decision-making to allow the Council to act effectively in pursuit of its objectives and plans. There was also a lack of clarity over decision making, documentation of clear audit trails and a concern that the financial and contract procedure rules were disjointed and not always in line with delegations.
- 5.27 The aim of reviewing the Scheme was to make all forms of decision making as streamlined and clear as possible, simplify the rules and remove duplication and conflict. Delegations needed to be redrafted to empower officers to make decisions in line with corporate procedures with a robust audit trail and clear sub delegation rules.

Revised Scheme of Delegation - Structure of the Scheme

- 5.28 The proposal is to have a four part scheme. Part 1 is an overarching 'umbrella document' that sets out the guiding principles on how the Council will delegate its executive and non executive powers to officers.
- 5.29 Part 2 consists of General Delegations which are common to all parts of the Council and relate to the Finance, Procurement, Human Resources and Property Management functions which support the main work of the Council. For consistency across the Council the General Delegations are delegated to officers at similar levels of authority in the Council's structure – Levels 1 to 4. Where there are local variations within Directorates with regard to any posts holding comparative responsibilities these will be designated and recorded within the Scheme.
- 5.30 Part 3 lists the 'Proper Officers'. These are posts which are created by legislation rather than resulting from a chosen structure. The proper officers are listed and cross referenced to officer posts in each directorate.
- 5.31 Part 4 of the Scheme sets out the functions delegated to each Directorate. The Chief Executive and each Strategic Director will establish and maintain a scheme of delegation for his/her directorate or budget area which specifies the function; names of the post which may carry out that delegated decision, and the limits, if any, on the delegation. The directorate delegations will not form part of the Constitution but will be published on the Council's website.
- 5.32 To ensure consistency the Head of Democratic Services will specify the format for the scheme of delegation and will maintain the current version of the Council's scheme of officer delegations. A copy will be available on the Council's website.
- 5.33 All Strategic Directors will have a duty to establish, review and keep the schemes of delegation up to date. They will review arrangements to ensure knowledge of and compliance with, their Scheme of Delegations, annually, or other prescribed statement of internal control.

Maintenance, Review and Change to the Scheme of Delegations

- 5.34 It is proposed that the Head of Democratic Services be authorised to approve changes to the Scheme of delegation. Requests for changes will be made in writing to the Head of Democratic Services in a prescribed format. Requests for changes to the general financial delegations will be referred to the Assistant Director of Finance & Audit for approval. All changes must be approved in accordance with this process for any change to be effective.
- 5.35 The proposed Scheme and mechanism for review will result in a Scheme:
- That is clear on levels of responsibility and the principles that all officers must comply with in making decisions
 - That clearly sets out financial, HR and procurement delegations and limits,
 - That will ensure that there are sufficient, properly authorised, officers to carry out the Council's business, lawfully and effectively and that everyone: officers, members and the public, knows who they are
 - That will be flexible and responsive to necessary changes

Transition

- 5.36 The detailed Directorate delegations (Part 4) will be worked up over April and May with a view to them being published by 1st July 2014.
- 5.37 The Council is asked to approve Parts 1 (guiding principles), Part 2 (General Delegations) and Part 3 (Proper Officer Appointments).
- 5.38 Any conflict that arises within the transition period between the newly agreed 'umbrella' documents and the existing officer delegations as published in the current Constitution will be resolved in writing by the Monitoring Officer and Section 151 Officer following consultation with the Chief Executive.
- 5.39 A copy of Parts 1, 2 and 3 of the proposed Scheme is set out at Appendix 7.

Ongoing Review of the Constitution

- 5.40 Work on reviewing some parts of the Constitution is ongoing and will be programmed into future Panel Review meetings.

Public Questions at Budget Meetings.

- 5.41 The following recommendation was referred to the MPOC for consideration by the Council on 18th February 2014-04

"Any member of the public who has taken up the opportunity afforded in accordance with the Constitution to inspect the Council's Accounts and related financial documentation, shall be entitled to ask up to three questions and clarifying follow-ons at the Annual Budget Council meeting and/or the Annual Close of Accounts Council meeting, where their inspection has taken place within the current municipal year, in order to promote greater transparency and accountability to residents."

- 5.42 The Panel sought clarification from Councillor Smith on the exact intention of the recommendation and gave the matter consideration at its meeting on 27th March 2014.
- 5.43 The Panel noted the additional information provided by Councillor Smith in support of his recommendations. In considering the proposal the Panel noted that it had recommended that the Terms of Reference of the Audit & Risk committee be amended to allow approval of the Council's accounts and that this would not therefore be a function of the Council in future. It was also confirmed that the public could request information at any time and as such, it was felt that the proposal did not add value to processes already in place. The Panel recommended that no further action be taken regarding the proposal

Webcasting/Filming meetings

- 5.44 The following Motion was referred to the MPOC for consideration by the Council on 26th November 2013.

"That the constitutional panel and Council considers allowing public meetings to be recorded, filmed and photographed for greater transparency and public scrutiny. Thereby, revising Part 4.1 Section

25.1 and Section 25.2 of the Council's Constitution to allow for the photographing, recording or oral reporting of any proceedings of the Council."

- 5.45 The Panel considered the options presented for the filming and recording of meetings. Members noted the legal requirements of the Local Audit and Accountability Act 2014 which will allow the Secretary of State for Communities and Local Government to issue regulations in connection with allowing persons to film, photograph or make sound recordings of proceedings at a meeting of a committee/sub committee. The Regulations were expected after the relevant Sections of the Act come into force at the end of March 2014.
- 5.46 Whilst accepting that allowing meetings to be filmed by the press and public had benefits in terms of openness and transparency and could lead to a greater awareness of the Council's decision-making there were concerns about possible misuse of footage, inappropriate editing and potential disruption of meetings. Given the changes to the legal position that would require Councils to permit filming the Panel considered a draft protocol that sought to address the practical issues raised.
- 5.47 Members agreed the protocol (set out at Appendix 8) and requested that it be reviewed once the Regulations were published for report to Council. It was envisaged that filming would be allowed at meetings that were open to the public following the Annual Council meeting.
- 5.48 Members went on to discuss the advantages of the Council webcasting meetings which included retaining an official record of the meeting. Members noted that there would be cost implications of webcasting particularly as meetings in Slough were held in a number of venues and fixed cameras would not be able to be used. There would also be cost considerations associated with streaming, retention of material etc.
- 5.49 The Panel requested more detailed costing of webcasting which included fitting out current buildings used for meetings such as Chalvey Community Centre and The Centre, Farnham Road, with various fixed and portable cameras. Members also considered the prospect of some council meetings being held at The Curve once it was opened.
- 5.50 The Panel concluded that the most efficient use of funds would be to concentrate on fitting out The Curve to ensure it could support webcasting, as this was to be a modern, primary site to be used for the majority of meetings in future. The Panel agreed to recommend to the Council that the Council does not commence webcasting of meetings before the completion of The Curve.

6 Appendices

Appendix 1	Budget and Policy Framework Procedure Rules
Appendix 2	Financial Procedure Rules
Appendix 3	Audit and Risk Committee Terms of Reference
Appendix 4	Employment and Appeals Committee Terms of Reference
Appendix 5	Council Procedure Rules
Appendix 6	Overview and Scrutiny Procedure Rules
Appendix 7	Scheme of Delegation to Officers
Appendix 8	Protocol for Filming Meetings

7. Background Papers None