

GOVERNANCE COMMITTEE

24 JUNE 2013

REPORT OF THE MONITORING OFFICER

REVIEW OF THE COUNCIL'S CONSTITUTION 2012/13 – FOLLOW UP

1.0 PURPOSE OF THE REPORT

- 1.1 At the Meeting of the Council held on 24 April 2013, it was resolved that four items be referred back to the Committee for reconsideration.
- 1.2 The Committee is requested to re-consider the deferred items for amendment to the Council's Constitution as well as some other changes listed in paragraphs 3.4, 3.5 and 3.6 of the report and refer the same to the Council for approval.

2.0 RECOMMENDATIONS

- 2.1 To agree the following changes to the Constitution and refer the same to the Council for adoption :-

- (a) To agree Option (1) or (2) in each case as set out in the Key Issues at 3.1 below in respect of :-

**New Officer Delegation to Head of Communities & Neighbourhoods
relating to approval of Neighbourhood Plans
Procedure Rule 13.4 – Timing for Speeches
Role of Leader of the Opposition**

- (b) To agree the changes proposed to Part 5 of the Constitution as set out at Appendices A and B.
- (c) To agree a consequential change at Part 2 of the Constitution within Article 2 under the heading 'Officers' on page 16 being a job role change of the Monitoring Officer.
- (d) To agree an additional paragraph within the Contract Procedure Rules at paragraph 1.4.8 which states :-

'That where procurement is being undertaken on the Council's behalf by another public sector body, through working in partnership or through a shared service, that the lead organisation's contract procedure rules are able to be followed in preference to this Council's subject to approval by the relevant Head of Service.'

3.0 KEY ISSUES

- 3.1 At the Meeting of the Council held on 24 April 2013, it was resolved that the

following four items be referred back to the Committee for reconsideration.

- (a) New Officer Delegation to Head of Communities & Neighbourhoods in respect of Neighbourhood Plans was recommended to Full Council as follows :-

Option 1

‘To consider and make all decisions relating to Neighbourhood Plans in consultation with the Chair of the relevant Committee.’

The Council requested reconsideration of whether these plans should be approved by officer delegation even though this was proposed to be in consultation with the relevant Chair or that the Neighbourhood Plans be referred to the Rural, Economic and Environmental Affairs Committee for approval and the following delegation be added to that committee.

Option 2

To add the following delegation to the Rural and Economic Affairs Committee :

‘To consider and make all decisions relating to Neighbourhood Plans.’

- (b) Procedure Rule 13.4 – Timing for Speeches was recommended to Full Council that the following change to the Procedure Rule allowed provision for the Leader and Leader of the Opposition to speak for 10 minutes :-

Option 1

Content and length of speech

*13.4 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor **apart from the Leader and Leader of the Opposition who may speak for up to 10 minutes.***

The discussion at Full Council requested that the longer speech time should relate to major speeches and debates not just for the Leader and the Leader of the Opposition but for proposers of the main motion and amendments as in these circumstances Councillors needed the extra time to set out their reasons for their proposals. If this was agreed, the wording would read as follows :-

Option 2

Content and length of speech

*13.4 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor **apart from the Leader and Leader of the Opposition who may speak for up to 10 minutes as well as those proposing a motion or an amendment.***

- (c) Role of Leader of the Opposition was recommended to Full Council as follows :-

Option 1

To agree formalising the role of Leader of the Opposition being the Leader of the largest opposition group and recognise other group leaders, Article 2 of the Constitution be amended to add the following :-

‘(e) Leader of the Opposition and Other Group Leaders

The Council recognises other Group Leaders and may, if it considers appropriate to do so, appoint a Leader of the Opposition, being the Leader of the largest opposition group.’

To agree that the Leader of the Opposition and other Group Leader(s) role be defined in the Roles and Responsibilities document as set out in Part 5 of the Constitution and be amended as shown at Appendix A12.

Also that the Leader of the Opposition role include involvement in Corporate Management Team’s individual appraisals and these matters be reflected in the Member Roles and Responsibilities document set out in Part 5 of the Constitution.

The discussion at Full Council requested that the role be defined in more definite terms in Article 2 of the Constitution and the words ‘may, if it considers appropriate to do so’ be removed and replaced with ‘will’. Therefore the wording be amended to read as follows :-

Option 2

(e) Leader of the Opposition and Other Group Leaders

‘The Council recognises other Group Leaders and will appoint a Leader of the Opposition, being the Leader of the largest opposition group.’

The remainder of the item to be as proposed to the Council as above.

- 3.2 With regard to the deferred Part 5 of the Constitution which included consequential job role changes and current practical arrangements including updated Code of Conduct, Task Group Protocol, Minutes Procedure, Member Roles and Responsibilities, ICT Protocol for Members, these are set out at Appendix A and in full at Appendix B within a tracked changed document.
- 3.3 An extract of the debate at the Council Meeting held on 24 April 2013 is attached at Appendix C so that Members may recall the discussion and the reasons for the deferral.
- 3.4 For clarity and transparency, some further changes from the document presented to Council have been made to Part 5 which relate to the Complaints Process being added to the Constitution and the ‘Appeals Panel’ being amended to ‘Appeals Committee’ as well as the Monitoring Officer Protocol being amended to include the following wording at paragraph E2 *‘Complaints about Members regarding breach of the Code of Conduct are to be dealt with in*

accordance with the complaints process which is at page 10 of Part 5 of the Constitution.' These items are included in Appendices A and B.

3.5 A consequential change is put forward to the Committee at Part 2 of the Constitution within Article 2 under the heading 'Officers' on page 16 being a job role change of the Monitoring Officer.

3.6 When carrying out a procurement exercise with another authority, which is not within the Welland group, and to enable that Council to undertake the procurement on our behalf using their own Contract Procedure Rules, it is proposed that our Contract Procedure Rules be waived in these circumstances and a new paragraph be added at 1.4.8 which reads as follows :-

'That where procurement is being undertaken on the Council's behalf by another public sector body, through working in partnership or through a shared service, that the lead organisation's contract procedure rules are able to be followed in preference to this Council's subject to approval by the relevant Head of Service.'

3.7 The Committee is to refer its recommendations for amending the Constitution to the Full Council for adoption.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 The Constitution is subject to annual review however due to it being a living document there may be requirements for changes within the year. Therefore as well as the annual review, items will be referred to the Committee as required.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 Any financial and resource implications will be met from existing resources.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Any change in legislation overrides the current wording of the Constitution and the Monitoring Officer has delegated authority to make amendments as required by the law. Therefore such legal consequential changes will be put in place immediately and reported to the Committee as soon as possible thereafter.

6.2 Specific legal implications relating to each proposed amendment are taken into account when considering the relevant item.

7.0 COMMUNITY SAFETY

7.1 There are no community safety implications relating to this report.

8.0 EQUALITIES

8.1 There are no specific equalities implications relating to this report.

9.0 RISKS

9.1 Any risk implications relating to each proposed amendment are taken into account when considering the relevant item.

10.0 CLIMATE CHANGE

10.1 It is proposed that the revised Constitution be available electronically to Members and Officers to meet the Council's corporate commitment to the paperlight project.

11.0 CONSULTATION

11.1 There has been internal consultation with Management Team on all matters.

12.0 WARDS AFFECTED

12.1 All wards are indirectly affected by this report.

Contact Officers : Angela Tebbutt, Monitoring Officer/Sarah Evans, Senior Democracy Officer

Date : June 2013

Appendices : Appendix A Part 5 – Detailed list of proposed changes
Appendix B Part 5 – Codes and Protocols with tracked changes
Appendix C Extract of Council Minute CO97 – 24 April 2013

Background Papers : Constitution 2012