

Council Report

Annual Council – 19 May 2017

Title

Review of the Constitution

Is this a Key Decision and has it been included on the Forward Plan?

Not applicable

Director Approving Submission of the Report

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Ward(s) Affected

All

Executive Summary

Following the adoption of the recommendations from the Governance Review at the annual meeting in 2016, a number of subsequent amendments to the constitution of the Council have been made during the 2016-17 municipal year. In addition to this, an external review of the council's constitution has been commissioned by the Monitoring Officer, on behalf of the Constitution Working Group. This work is being undertaken by the Association of Democratic Services Officers, the professional body for governance and democratic services professionals.

Following the restoration of decision making powers in respect of the appointment of councillors to serve on outside bodies, it is proposed that the Council formally adopt procedure rules which will enable the authority to discharge its responsibilities.

Recommendations:

1. That the final report in respect of the external review of the Constitution be submitted to the next meeting of the Council on 12 July 2017 following detailed consideration of the interim report and further proposals by the Constitution Working Group.

2. That the Procedure Rules for the Appointment of Councillors to Serve on Outside Bodies be incorporated within Standing Orders (Appendix 4 of the Constitution).

Appendices

Appendix A – Procedure Rules for the Appointment of Councillors to Serve on Outside Bodies

Background Papers

The Council's Constitution

Governance Review 2016

Interim Report – Review of Rotherham's Constitution – Association of Democratic Services Officers

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

Yes

Exempt from the Press and Public

No

Review of the Constitution

1. Recommendations

- 1.1 That the final report in respect of the external review of the Constitution be submitted to the next meeting of the Council on 12 July 2017 following detailed consideration of the interim report and further proposals by the Constitution Working Group.
- 1.2 That the Procedure Rules for the Appointment of Councillors to Serve on Outside Bodies be incorporated within Standing Orders (Appendix 4 of the Constitution).

2. Background

- 2.1 In May 2016, the Council agreed a number changes to the constitution arising from the work of the Governance Review Working Party. In agreeing those changes, the Council directed the Constitution Working Group to continue the work of the former working party in strengthening the authority's governance arrangements through a review of the constitution.
- 2.2 Since that time, the Council has agreed various changes to its constitution on the recommendation of the Constitution Working Group. In the past year, revisions have been made to Contract Standing Orders, Financial Procedure Rules, Standing Orders, Access to Information Procedure Rules, Executive Procedure Rules and Overview & Scrutiny Procedure Rules.
- 2.3 The Constitution Working Group has also instructed the Monitoring Officer to commission an external review of the document to identify provisions which require amendment, improvement or removal. This review is being undertaken by the Association of Democratic Services Officers, the professional body for governance and democratic service officers.
- 2.4 The Council's constitution gives authority for decision making and service delivery in Rotherham. It is not a document that operates in isolation. Separate reviews to deliver improvements in the way that the Council engages with and operates in local communities have taken place in the past year and have developed proposals which will further amend the constitution.

3. Review of the Constitution

- 3.1 The Council has asked ADSO to focus on the following areas of the constitution for review:
 - Appendix 1 - Executive Procedure Rules
 - Appendix 2 - Overview and Scrutiny
 - Appendix 3 - Access to Information
 - Appendix 4 - Standing Orders
 - Appendix 9 - Scheme of Delegation

and in addition to any specific recommendations to amend the constitution, ADSO have also been asked to improve the drafting of the document to ensure that it is current, concise, consistent and user-friendly.

3.2 An interim report has been received from ADSO which details the areas which require amendment and where the Council may wish to consider making changes. In particular they have suggested a revised format of:

- Summary and Explanation
- Articles of the Constitution
- Responsibility for Functions
- Rules of Procedure
- Financial Procedures
- Codes and Protocols
- Members Allowances Scheme
- Management Structure

and the codifying of the current arrangements for pre-decision scrutiny. The process of translating the current constitution into this new format will require careful consideration of how the constitution works as a consistent whole and detailed amendments to ensure that the whole document is concise, current, consistent and user friendly.

3.3 At this stage, further work will be required with the Constitution Working Group and officers to consider the proposed areas for amendment and refine the proposals. The review of the Constitution will be completed in time for a final report and recommendations to be presented to the next meeting of the Council on 12 July 2017.

4. Procedure Rules for the Appointment of Members to serve on Outside Bodies

4.1 In March 2017, the Secretary of State for Communities and Local Government restored further decision making powers to the Council in respect of the appointment of councillors to serve on outside bodies.

4.2 Prior to agreeing the return of this power to the Council, the Constitution Working Group reviewed the practice for such appointments prior to government intervention and how other authorities appoint councillors to serve on outside bodies. The working group's consideration led to the development of procedure rules, which are appended to this report.

4.3 The Council is recommended to agree the incorporation of the procedure rules for the appointment of councillors to serve on outside bodies within Appendix 4 of the Constitution – Standing Orders.

5. Options considered and recommended proposal

- 5.1 As referred to earlier in this paper, the interim report on the external review of the constitution has been received from ADSO. The report sets out the areas where recommendations will be made and Council is recommended to note that these will be further refined with the Constitution Working Group and officers prior to a final report being submitted to the next meeting of the Council.
- 5.2 The procedure rules concerning the appointment of councillors to serve on outside bodies have been reviewed by the cross party Constitution Working Group. They were also part of the submission of evidence to the Secretary of State to secure the further restoration of decision making powers to local democratic control. It is therefore proposed that these be formally adopted within the Council's constitution to enable the appointment of councillors to serve on outside bodies at the Cabinet's first meeting of the municipal year on 26 June 2017.

6. Consultation

- 6.1 The Constitution Working Group has been consulted in the development of all proposals to amend the constitution.

7. Timetable and Accountability for Implementing this Decision

- 7.1 The Council will consider the final report and recommendations arising from the external review of the constitution at its next meeting on 12 July 2017. In the meantime, the Constitution Working Group will meet with representatives of ADSO and officers to refine the proposals to amend the constitution.
- 7.2 If Council is minded to agree the recommendation to incorporate the procedure rules for the appointment of councillors to serve on outside bodies, this amendment to the constitution will take effect from the date of the Council meeting.

8. Financial and Procurement Implications

- 8.1 There are no financial or procurement implications directly arising from the proposals within this report.

9. Legal Implications

- 9.1 It is important that the Council has an up to date constitution to provide clarity and certainty in its decision making.

10. Human Resources Implications

- 10.1 There are no human resources implications arising from this report.

11. Implications for Children and Young People

- 11.1 There are no implications for children and young people arising from this report.

12. Equalities and Human Rights Implications

12.1 There are no equalities and human rights implications arising from this report.

13. Implications for Partners and Other Directorates

13.1 There are no implications arising from this report.

14. Risks and Mitigation

14.1 By amending the constitution to strengthen its governance arrangements, the authority is mitigating risks in respect of accountability, probity and transparency in decision making.

15. Accountable Officer(s)

Dermot Pearson, Assistant Director of Legal Services and Monitoring Officer
James McLaughlin, Democratic Services Manager