

Summary Sheet

Standards and Ethics Committee – 29 June 2017

Report Title

Proposed Amendments to the Constitution – Standing Orders

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

No

Strategic Director Approving Submission of the Report

Shokat Lal, Assistant Chief Executive

Report Author(s)

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Ward(s) Affected

All

Summary

Good governance is at the centre of Rotherham's improvement journey and so the Council has continually reviewed the effectiveness of its Constitution in the past two years to strengthen accountability and transparency in decision making. The latest stage of this review has been undertaken by the Association of Democratic Services Officers (ADSO) to provide external challenge and recommendations to strengthen various parts of the Constitution.

This report is specifically concerned with ADSO's recommendations to amend Standing Orders, which are found at Appendix 4 to the Constitution. It has been some time since Standing Orders have been reviewed in full and ADSO have compared the council's current procedures to the good practice in other local authorities. This report summarises the main proposed changes to be made, which include simplifying language and removing unnecessary provisions or procedures which do not add value to the Council's governance framework.

Recommendations

1. That the Council be recommended to approve the amendments relating to Standing Orders set out in Appendix A.
2. That the Council be recommended to approve the renaming of Standing Orders to Council Procedure Rules.

3. That the Financial Regulations and Contract Standing Orders be included in an enlarged Appendix 5, to be known as Contract Procedure Rules.

List of Appendices Included

Appendix A – Proposed amendments to Standing Orders

Background Papers

The Council's Constitution

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Constitution Working Group – 28 June 2017

Council – 12 July 2017

Council Approval Required

Yes

Exempt from the Press and Public

No

Proposed Amendments to the Constitution – Standing Orders

1. Recommendations

- 1.1 That the Council be recommended to approve the amendments relating to Standing Orders set out in Appendix A.
- 1.2 That the Council be recommended to approve the renaming of Standing Orders to Council Procedure Rules.
- 1.3 That the Financial Regulations and Contract Standing Orders be included in an enlarged Appendix 5, to be known as Contract Procedure Rules.

2. Background

- 2.1 The Council has sought to strengthen its governance arrangements as part of Rotherham's improvement journey and has reviewed various aspects of its Constitution in the past two years. Commencing with the implementation of the recommendations of the Governance Review Working Party in May 2016, the Council has made the changes in respect of:
 - definitions of a Key Decision
 - delegated decision making by officers
 - financial regulations and contract standing orders
- 2.2 One of the recommendations from the Governance Review Working Group was that an external review of the Constitution should be undertaken. The Council commissioned the Association of Democratic Services Officers (ADSO), the national professional body for local authority governance and democratic services, to undertake a review of the following areas of the Constitution:
 - Executive Procedure Rules
 - Overview and Scrutiny Procedure Rules
 - Access to Information Rules
 - Standing Orders
 - Scheme of Delegation
- 2.3 This report is principally concerned with the recommendations from ADSO on Standing Orders. The Constitution currently requires any proposal to amend Standing Orders to be considered by the Standards and Ethics Committee, before any recommendation can be considered by the Council.
- 2.4 The proposals to amend Standing Orders have been prepared following a review of the current provisions and extracting good practice from other local authorities identified by ADSO.
- 2.6 A headline change proposed is to rename this part of the Constitution as 'Council Procedure Rules', rather than 'Standing Orders' to better reflect the purpose of this section of the document and good practice elsewhere.

2.7 The proposed Council Procedure Rules are detailed at Appendix 1, showing tracked changes to highlight what the current provisions are and what amendments are recommended.

3. Key Issues

3.1 Whilst the proposed changes are highlighted in Appendix A of this report, there are matters which are broader than improved wording of the provisions of this part of the Constitution. As referred to in paragraph 2.6 above, ADSO have proposed that this Appendix 4 of the Constitution, which is currently called Standing Orders, be renamed 'Council Procedure Rules. The effect of this is to consolidate all of the procedural rules for Council and committee meetings in one area of the Constitution and remove other provisions concerning contract and procurement procedures, which form a significant part of the existing Standing Orders.

3.2 The main changes are set out below with reference to the relevant Standing Orders:-

- Removal of the prescriptive requirement for the Council to meet every six weeks and asserting the authority of Council to determine the dates on which it will meet (Standing Order 1). ADSO have also drafted a provision for a guillotine procedure if Council were minded to include this within the new procedure rules
- Clarifying the business of the Annual Meeting of the Council in years where whole council elections are held and those of other years where elections are not held (Standing Orders 1 and 4).
- A succinct summary of quorum for Council meetings and the implication of a Council meeting becoming inquorate during proceedings (Standing Order 2)
- Remove the requirement for Cabinet and Committee minutes to be reported to Council for approval as only the Cabinet or the relevant committee itself can approve minutes of its meetings as a true and correct record (Standing Orders 4 and 6)
- Introduce a provision for the Leader of the Council to make a statement on matters relating to the Council or the Borough and remove the existing provision for Communications by the Mayor or Chief Executive (Standing Order 5)
- Remove the requirement for the 'Orange Book' to be printed (Standing Order 6)
- Consolidate provisions for questions to Cabinet Members, Committee Chairs and councillor representatives on certain outside bodies (Standing Order 7)
- Removal of recommendations being considered through Cabinet or committee minutes. Practice will be for Council to consider reports detailing the recommendations of Cabinet or committees so that Members can make decisions with all relevant information before them (Standing Order 9)
- Introduce a requirement for the Chair of Overview and Scrutiny Management Board to submit a written report with the opportunity to address Council for 5 minutes and answer questions on the activities of the scrutiny function (Standing Order 9A)

- Introduce a requirement for motions to relate to or affect the residents of the Borough of Rotherham (Standing Order 10)
- Introduction of provision for a Member seconding motion to have the right to speak for 5 minutes (Standing Order 13)
- Clarification of provisions in respect of Points of Order and Personal Explanations (Standing Order 13)
- Introduction of provisions for recorded votes (Standing Order 14)
- Deletion of detailed provisions in respect of the approval and adoption of draft plans and strategies, setting of council tax and precepts and voting upon budget and council tax setting decisions on the basis that they can be dealt with elsewhere under the Rules of Debate (Standing Order 19A, 19B and 19C)
- Removing staffing appointment provisions and including within a separate part of the Constitution to be called 'Employment Procedure Rules' (Standing Order 30)
- Removal of detailed legislative provisions which are attached as an appendix to Standing Orders

4. Options considered and recommended proposal

- 4.1 As Standing Orders have not been reviewed in full for a considerable period of time, it is necessary to ensure that procedures are modern, reflect good practice and are understood and applied by Members and officers. The option of not making any changes was not appropriate.
- 4.2 This report details the recommended proposals from ADSO to strengthen the Council's governance arrangements. The committee is asked to recommend the proposed changes to Council for adoption and recommend the naming of Standing Orders to Council Procedure Rules.

5. Consultation

- 5.1 Consultation has taken place with the Assistant Director of Legal Services and the Democratic Services Manager prior to the publication of this report. Further consultation will take place with the Constitution Working Group on 28 June 2017 and the comments of the working group will be verbally reported to this meeting.

6. Timetable and Accountability for Implementing this Decision

- 6.1 If this committee were minded to agree to the proposal to recommend the amendments to the Constitution to Council, these would require consideration by Council on 12 July 2017. Subject to Council's approval, the changes would be implemented with immediate effect.
- 6.2 The Assistant Director of Legal Services is responsible for ensuring implementation of the changes once agreed.

7. Financial and Procurement Implications

- 7.1 The proposals from ADSO incorporate a recommendation to consolidate all financial and procurement matters within one single area of the Constitution. Presently, the rules concerning procurement and contracts form part of Standing Orders. If the committee were minded to recommend this change to Council, the effect of this would be to establish a new Financial Procedure Rules part of the Constitution.

8. Legal Implications

- 8.1 As a creature of statute, the Council requires the Constitution to be current and coherent as the key enabling document that enables the authority to exercise its decision making powers and procedures. The changes proposed within this report are compliant with the provisions of the Local Government Act 2000, which introduced the requirement for local authority constitutions, and subsequent legislation which has further strengthened local authority governance.

9. Human Resources Implications

- 9.1 The recommendations from ADSO include a suggestion to consider the establishment of Employment Procedure Rules to capture all staffing and human resources provisions in a single part of the Constitution, rather than spread out across various areas of the document. Beyond this recommendation, there are no other implications arising from this report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 There are no implications arising from this report.

11 Equalities and Human Rights Implications

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

12. Implications for Partners and Other Directorates

- 12.1 The proposals will give confidence to the Council's partners as a demonstration of the authority's commitment to improving its governance arrangements.
- 12.2 The proposals will have some implications for officers of the Council who will require briefing and training on the new provisions.

13. Risks and Mitigation

- 13.1 As Standing Orders have not been reviewed in full for some time, any update to change their provisions creates the potential for confusion and misunderstanding. Whilst the purpose of making changes to improve the Constitution is to remove confusion and misunderstanding, there are risks in making the changes:

Risk	Mitigation
Members may be unaware of the new procedure rules	Clear communication of the changes is needed Make them available online Consider a training programme to explain the effect of the changes
New rules may be unclear or have ambiguities	Monitor the application of the new rules The Monitoring Officer to provide advice and guidance where required Review and revise where required after one year of operation
New rules may have gaps	The Monitoring Officer to issue guidance on an interim basis until the next review addresses the gaps permanently
External changes (e.g. new legislation)	The Monitoring Officer will ensure that a report is brought forward to propose any necessary changes at the earliest opportunity.

14. Accountable Officer(s)

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

Approvals Obtained from:-

	Named Officer	Date
On behalf of Strategic Director of Finance & Customer Services		
On behalf of Assistant Director of Legal Services		
On behalf of Head of Procurement (if appropriate)		
On behalf of Head of Human Resources (if appropriate)		

Report Author: James McLaughlin, Democratic Services Manager

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