

Summary Sheet

Council – 13 September 2017

Title:

Recommendation from Standards and Ethics Committee – Proposed Amendments to the Constitution – Standing Orders and Officer Employment Procedure Rules & Code of Conduct

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

No

Strategic Director Approving Submission of the Report

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Ward(s) Affected

All

Summary

At the Standards and Ethics Committee meeting on 29 June 2017, Members agreed to recommend the Council to approve amendments to Appendix 4 of the Constitution, Standing Orders.

In order to give effect to the proposals of the Standards and Ethics Committee, consideration and approval by Council must be given to the recommendation set out below. The report detailing the reasoning behind the recommendation is appended in order to provide Members with sufficient knowledge to agree the proposals.

Recommendations

1. That the amendments to Standing Orders be agreed and the Constitution amended accordingly.
2. That Contract Standing Orders be removed from Appendix 4 and included in Appendix 5 of the Constitution, with Financial Regulations, and the new Appendix 5 be renamed Financial Procedure Rules.
3. That Standing Orders be renamed Council Procedure Rules.

4. That a New Appendix 7 entitled Officer Employment Procedure Rules & Code of Conduct be adopted within the Constitution.
5. That the name of the Appeals and Grievance Panel in Appendix 9 of the Constitution, Scheme of Delegation, be amended to Appeals Panel and the Grievance Policy be amended to reflect the removal of the provision for an appeal to Members under that policy.

List of Appendices Included

- Appendix 1 Report to Standards and Ethics Committee – 29 June 2017 ‘Proposed Amendments to the Constitution – Standing Orders’
- Appendix 2 Revised Council Procedure Rules
- Appendix 3 Officer Employment Procedure Rules and Code of Conduct

Background Papers

Minutes of Standards and Ethics Committee – 29 June 2017
Schedule of Recommendations from ADSO (Association of Democratic Services Officers)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Standards and Ethics Committee – 29 June 2017
Constitution Working Group – 4 August 2017

Council Approval Required

Yes

Exempt from the Press and Public

No

Recommendation from Standards and Ethics Committee – Proposed Amendments to the Constitution – Standing Orders and Officer Employment Procedure Rules & Code of Conduct

1. Recommendations

- 1.1 That the amendments to Standing Orders be agreed and the Constitution amended accordingly.
- 1.2 That Contract Standing Orders be removed from Appendix 4 and included in Appendix 5 of the Constitution, with Financial Regulations, and the new Appendix 5 be renamed Financial Procedure Rules.
- 1.3 That Standing Orders be renamed Council Procedure Rules.
- 1.4 That a New Appendix 7 entitled Officer Employment Procedure Rules & Code of Conduct be adopted within the Constitution
- 1.5 That the name of the Appeals and Grievance Panel in Appendix 9 of the Constitution, Scheme of Delegation, be amended to Appeals Panel and the Grievance Policy be amended to reflect the removal of the provision for an appeal to Members under that policy.

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. This requirement was met when the proposals were reviewed by Standards and Ethics Committee on 29 June 2017.
- 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.

3. Key Issues

- 3.1 The principal changes are set out in Appendix 1, which is the detailed paper considered by the Standards and Ethics Committee on 29 June 2017. The Committee resolved to recommend:
- a) That the Council be recommended to approve the amendments relating to Standing Orders set out in Appendix A.
 - b) That the Council be recommended to approve the renaming of Standing Orders to Council Procedure Rules.
 - c) That the Financial Regulations and Contract Standing Orders be included in an enlarged Appendix 5, to be known as Contract Procedure Rules.
- 3.2 A revised version of the Council Procedure Rules is enclosed at Appendix 2.
- 3.3 If the recommendations from Standards and Ethics Committee are approved by Council, it will be necessary to consider the adoption of Officer Employment Procedure Rules alongside the existing provisions of the Code of Conduct for Officers, which currently stands alone at Appendix 7 of the Constitution. The proposed new Officer Employment Procedure Rules are enclosed with this report as Appendix 3.
- 3.4 Following receipt of the Commissioners' 27 Month Progress Report, the Secretary of State has proposed to return further decision making powers to local democratic control. In his recent letter to the Chief Executive setting out proposed revisions to the intervention package, the Secretary of State has referred to the review of the provisions for HR staffing appeals, which has been undertaken by Commissioners since February 2015. The letter indicates that the Secretary of State expects the Council to have reviewed its arrangements for such appeals as part of the return of decision making powers for human resources.
- 3.5 The Constitution Working Group met on 4 August 2017 and gave consideration to which staffing appeal matters would require Member-level decision making. The broad consensus of the group was as follows that appeals arising from the Disciplinary Policy should continue to be heard by Members, but that appeals under the Grievance Policy would be determined by the relevant Strategic Director.

3.6 To give effect to recommendation from the Constitution Working Group it will be necessary to amend the Scheme of Delegation's provisions for the existing Appeal and Grievance Panel, which currently read:

1. The determination of an appeal against any decision made by or on behalf of the Council (no member of the executive or other member of the Council who was involved in making the decision appealed against may sit on the panel that considers the appeal).
2. Appeal and Grievance Panels shall comprise three members of the Council selected from a pool of eight members (two of whom shall be Cabinet members, four of whom shall be Scrutiny Panel members and two of whom shall be members of the opposition party), who have received appropriate training on employment related issues.

3.7 In view of the recommendation to remove grievance appeals from the remit of the Appeals and Grievance Panel, it is proposed to amend the name of the Panel so that it will be known as the Appeals Panel. It will be necessary for the relevant Grievance Policy and Disciplinary Policy to be updated accordingly.

3.8 Whilst decision making powers for human resources are proposed to be returned to local democratic control, the Secretary of State's directions indicate that he is minded for Commissioners to retain the power to appoint and dismiss the authority's three statutory officers – Head of Paid Service (Chief Executive), Chief Finance Officer (Strategic Director of Finance and Customer Services) and Monitoring Officer (Assistant Director of Legal Services). Whilst the Officer Employment Procedure Rules detail provisions for the Council to appoint and dismiss the post-holders for the statutory officer roles, these provisions are effectively dormant until the Secretary of State formally returns that power to the Council.

4. Options considered and recommended proposal

4.1 The Council has committed to review various parts of the Constitution as part of its improvement journey. The proposals set out above in this report have been put forward by ADSO on the basis of strengthening governance arrangements.

5. Consultation

5.1 The Constitution Working Group and Standards and Ethics Committee have been consulted in the development of the proposals submitted to Council for approval.

6. Timetable and Accountability for Implementing this Decision

6.1 If Council were minded to approve the recommendations set out above, then the changes to the Constitution could 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 Council were minded to approve this change, 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 should require 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 Human Resources implications are discussed earlier in this report. Beyond these, there are no further human resources implications arising from the proposals.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 There are no implications for children and young people or vulnerable adults arising from the proposals.

11. Equalities and Human Rights Implications

- 11.1 There are no equalities or human rights implications arising from the proposals.

12. Implications for Partners and Other Directorates

- 12.1 There are no implications for partners or other directorates arising from the proposals.

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	<p>Clear communication of the changes is needed</p> <p>Make them available online</p> <p>Consider a training programme to explain the effect of the changes</p>
New rules may be unclear or have ambiguities	<p>Monitor the application of the new rules</p> <p>The Monitoring Officer to provide advice and guidance where required</p> <p>Review and revise where required after one year of operation</p>
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)

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