

Committee Name and Date of Committee Meeting

Council – 30 October 2019

Report Title

Amendment to the Constitution – Responsibility for Functions – Terms of Reference for Cabinet

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)

James McLaughlin, Head of Democratic Services
01709 822477 or james.mclaughlin@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

The Council adopted the Leader and Cabinet model of executive decision making following a Governance Review in 2015/16. Legislation underpinning this model of executive governance gives the Leader of the Council the authority to determine how executive functions will be discharged by the authority through the Leader's own executive authority, the Cabinet or by officers. As such, the Leader of the Council has proposed that the terms of reference of the Cabinet be amended to include provision for that body to determine major changes to the method of delivery of council services.

This report is submitted to recommend to the Council that Appendix 9 of the Constitution be amended to reflect the change to the Cabinet's terms of reference.

Recommendations

1. That the Terms of Reference of the Cabinet be amended to include provision for the Cabinet to determine major changes to the method of delivery of council services.

List of Appendices Included

None

Background Papers

Appendix 9 of the Constitution – Responsibility for Functions
Final Report of Rotherham Council’s Governance Working Member’s Group –
February 2016
Local Government Act 2000

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

Yes

Exempt from the Press and Public

No

Amendment to the Constitution – Responsibility for Functions – Terms of Reference for Cabinet

1. Background

- 1.1 The Constitution of the Council has been the subject of rigorous review in recent years with every part of the document updated or re-written as part of the improvements required of the Council's governance processes. This work commenced with the Governance Review in 2015/16, which reviewed which model of executive governance would be most appropriate to expedite the Council's improvement journey.
- 1.2 The Local Government Act 2000, as amended, required local authorities to adopt one of the following models of executive governance:-
- **Leader and Cabinet** – operated by most councils. Decision-making powers can be given to individual cabinet members or retained by full cabinet. The Leader is elected by Council and the Council must have at least one overview and scrutiny committee.
 - **Mayoral system** – directly elected executive mayor, who appoints a cabinet made up of other councillors, who may also have decision making powers. The Council must have at least one overview and scrutiny committee.
 - **Committee system** – most decisions are made by Committees, which comprise of a range of councillors, to reflect the political balance of the Council (this is the only model of the three options that specifically requires political balance). The Council is not required to have an overview or scrutiny committee(s) but may choose to do so. Individual members cannot make decisions, although these can be delegated to individual officers
- 1.3 The recommendation from the Governance Review Working Party, a cross party group of Members, was to confirm the retention of the Leader and Cabinet model governance, but complemented with enhanced pre-decision scrutiny arrangements and a further external review of the Constitution to ensure that the authority had effective governance procedures to deliver improved outcomes from services for communities across the borough.

2. Key Issues

- 2.1 The statutory provisions of the Leader and Cabinet model of executive governance give authority to the Leader of the Council to determine how executive functions will be discharged. Appendix 9 of the Constitution (Responsibility for Functions) details the Cabinet's terms of reference, as well as all other provisions for the delegation of executive functions to officers of the Council.

2.2 In reviewing the Cabinet's terms of reference, the Leader of the Council has proposed that these be amended to include a provision for the Cabinet to determine major changes to the method of delivery of council services. In proposing this amendment, the Leader of the Council has indicated that authority for such decisions in respect of council services delivered either by the Council or by an external organisation or partner. The proposed amendment is designed to ensure that there is Member level decision making in respect of any significant service changes to aid transparency and democratic oversight.

3. Options considered and recommended proposal

3.1 The proposed amendment would be inserted as a new point 24 in the Cabinet's terms of reference and read:-

24. to determine major changes to the method of delivery of council services (covering both in house or externally delivered services)

3.2 The current point 24, which reads "The exercise of any other executive function which the Leader or Cabinet determines shall be decided by the full Cabinet or which has been referred to the Cabinet by an individual Cabinet member" would become point 25 in the Cabinet's terms of reference.

3.3 The proposed amendment would give effect to a provision that has been operating across services in the most part. The decision to amend the Constitution enshrines the principle that the Cabinet would be the sovereign decision maker in respect of such matters in future.

4. Consultation on proposal

4.1 The Leader of the Council has consulted members of the Constitution Working Group in respect of the proposal to amend the Cabinet's terms of reference. Members of the Constitution Working Group were supportive of the change.

5. Timetable and Accountability for Implementing this Decision

5.1 Whilst the Leader of the Council has the authority to determine how executive functions are discharged, the authority to amend the Constitution is a matter for the Council in accordance with Article 18.3 (Changes to the Constitution). This report is submitted to comply with this requirement.

5.2 If the Council is minded to approve the recommendation to amend the Constitution, the change will be effective immediately. The Head of Democratic Services will be accountable for the implementation of the change to the Appendix 9 of the Constitution (Responsibility for Functions) which will amend the Cabinet's terms of reference.

6. Financial and Procurement Advice and Implications

6.1 There are no direct financial or procurement implications arising from the recommended amendment to the Constitution.

7. Legal Advice and Implications

7.1 The legal implications of the proposed amendment to the Constitution are detailed throughout the report. There are no additional legal implications.

8. Human Resources Advice and Implications

8.1 There are no human resources implications directly arising from the proposed amendment to the Constitution.

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no direct implications for children and young people or vulnerable adults arising from the proposed amendment to the Constitution.

10. Equalities and Human Rights Advice and Implications

10.1 There are no equalities or human rights implications directly arising from the proposed amendment to the Constitution.

11. Implications for Partners

11.1 There are no implications for partners directly arising from the proposed amendment to the Constitution.

12. Risks and Mitigation

12.1. There are no identifiable risks arising from the proposed amendment to the Constitution.

13. Accountable Officers

James McLaughlin, Head of Democratic Services

Approvals obtained on behalf of Statutory Officers:-

	Named Officer	Date
Chief Executive	Sharon Kemp	14/10/19
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	14/10/19
Head of Legal Services (Monitoring Officer)	Bal Nahal	14/10/19

Report Author: James McLaughlin, Head of Democratic Services
01709 822477 or james.mclaughlin@rotherham.gov.uk

This report is published on the Council's [website](#).