

Constitution Review 2022 (Law and Governance – Mario Leo)

Synopsis of report:

To ask the Committee to consider changes to the Constitution resulting from periodic updating and recommendations from the Constitution Member Working Party (MWP).

Recommendations:

The Committee is asked to recommend to Full Council on 28 April 2022 that:

- i) the changes to the Council's Constitution be approved;
- ii) the revised Constitution be effective from 18 May 2022; and
- iii) the Corporate Head of Law and Governance be authorised to settle the final form of the revised Constitution for adoption in accordance with the above decisions, and the Corporate Head of Law and Governance be authorised to incorporate any delegations to officers subsequently authorised by Committee(s) after 24 March 2022 and prior to printing, and make any minor editing changes necessary to correct errors or omissions discussed after 18 May 2022.

1. Context of report

- 1.1 The Council reviews the Constitution every year. The current Constitution is that approved in May 2021.
- 1.2 Prior to 2000, local authorities had a variety of constitutional documents, which governed the way in which the authorities operated, but did not have a Constitution. These documents included standing orders, contract standing orders, schemes of delegation, various codes of conduct and a scheme for Members' Allowances. Section 37 of the Local Government Act 2000 requires authorities to adopt and keep up to date Constitutions containing their standing orders, code of conduct for Members, any other information they consider appropriate and 'such information as the Secretary of State may direct'. In order to comply with these requirements, the Council undertakes an annual review of its Constitution

2. Report

- 2.1 Every review of the Constitution throws up a number of changes that are needed to reflect new legislation, the need for clarity or emphasis etc.
- 2.2 Some of the changes made are to incorporate changes which have already been previously authorised during the current Municipal Year by respective Full Council/ Committees and, if any, these are also specified in the summary below for completeness.
- 2.3 Most of the changes proposed have been recommended by the Constitution Member Working Party which has met regularly and again made a valuable contribution to this review of the Constitution. The Member Working Party (MWP) will continue to meet in the next Municipal Year and will consider a process for advance notice of amendments in the form of alternative budgets at Full Council and a process for dealing with consultations from outside agencies to allow greater awareness and input from Members.

3. **Summary of changes to Constitution for 2022**

3.1 The changes are as follows. The page numbers shown indicate where the relevant matter appears in the current Constitution which is on the Council's website. Text which is struck through below is to be deleted and text which appears in red type below is to be added.

General

- Minor updates, corrections and clarification of wording – dates, spellings, post titles, formatting, changes to reflect current practices, and changes to reflect revised managerial responsibility following recent internal structural changes etc. throughout document and any changes authorised by the relevant service Committee or under SO42 during the Municipal Year.

Page 66 - Matters reserved to Planning Committee

- **Clarification as the current wording is incorrect as SPDs are not Development Plan Documents and the making of Neighbourhood Plans has now been included. The wording now reads:**
The adoption/making of Development Plan documents (the Local Plan and Neighbourhood Plans) as part of the Development Plan, including any Development Plan Documents and Supplementary Planning Documents

Functions delegated to specific Officers

- **Page 80 Planning Policy**

To provide clarity of wording and to include 'Other general planning policy consultations' to encompass things like the consultation on SCC's Local Transport Plan 4. The section will read as follows:

Planning policy strategy and policy making and progression including all necessary agreements or authorisations in the consideration of:

- designation of neighbourhood areas and neighbourhood forum,
- ~~all necessary agreements or authorisations~~ necessary in the consideration neighbourhood development plans, neighbourhood development orders or community right to build orders
- ~~All necessary approvals to~~ **the progression of** any part or all of the Local Plan, ~~including~~ any Supplementary Planning Documents or associated guidance; and the approval of the Annual Monitoring Report and any other evidence base document for Publication.
- ~~The consideration of~~ NSIP matters.

~~Unless there is time to report to Committee,~~ To agree Statements of Common Ground pursuant to the Duty to Co-operate with other bodies and provide responses to the emerging Local Plans of other Local Planning Authorities, ~~or~~ Strategic Plans subject to the Duty to Co-operate, **or other general planning policy consultations** in consultation with the Chair and Vice-Chair of the Planning Committee, and that the Chair and Vice Chair of that Committee be notified as soon as possible of new consultations received. CHPPED/LPM/HEPCC

- **Page 82 – Community Safety**– To authorise the CHCS and Safer Runnymede Manager to set fees for deployable CCTV, subject to financial thresholds for sign off being adhered to.

Standing Orders for Council and Committee meetings

- **Page 155 -Standing Order 34-Rules of Debate** -Addition of mirror wording of SO 21 regarding Ending of Committee meeting by resolution after 3 hours have elapsed subject to Officers informing the relevant Committee of any implications for outstanding business before any vote on ending the meeting is taken. At the moment the provision regarding ending of a meeting only applies to Full Council meetings.
- **Page 162 - Standing Order 39.6-Voting on nominations and appointments to outside bodies** – Addition of new procedure as approved by Corporate Management Committee in January.
- **Page 173 – Standing Order 46.3 –Signing of Contracts.** That all Corporate Heads, and only Corporate Heads can sign contracts with a value up to £20,333 but that contracts should only be signed by the relevant Corporate Head, unless otherwise unavailable, and this change would also be made to Contract Standing Orders. This links in with the changes mentioned below in relation to threshold limits in CSOs.

Contracts for Standing Orders (CSOs)

- **Page 213-239**– clarification of definitions and formatting;
- **Page 222 -Para 2.2-Contract Value Thresholds-** The Cabinet Office have changed the VAT treatment for procurement threshold values to meet the requirements of the WTO Government Procurement Agreement following Brexit This will impact on the CSO thresholds published in para 2.2.

Threshold values are now inclusive of VAT. Previously they were set excluding VAT. So in effect the thresholds have lowered for both the requirement to publish to Contracts Finder (lower threshold was £25K excl VAT and is now £20,333 excl VAT) and to run a FTS process (was £189,330 excl VAT and now is £213,477 incl VAT or £177,898 excl VAT).

As we are legally obliged to publish opportunities to Contracts Finder where the total contract value (including VAT) is £25,000 (or £20,333 excl VAT), we will need to reduce the threshold for 3 quotes accordingly. The InTend process for tenders will automatically publish to Contracts Finder. Therefore Officers will be required to use the Invitation to Tender process for anything above £20,333 to ensure we meet our legal obligation.

Part 5-Members Code of Conduct

- **Page 286** -replace with new LGA Model Code of Conduct as approved by Standards and Audit Committee in 23 November 2021 and by SO42 in December 2021.

Part 6 –Scheme of Members’ Allowances

- **Page 405** – The new scheme of Members’ Allowances approved at Full Council on 3 March 2022 will replace the existing scheme contained in the Constitution.

Part 7 – Management Structure

- **Page 410** - updated structure diagram will be included to reflect changes made since the Constitution was last adopted.

4. **Implementation**

- 4.1 The Committee's recommendation will be reported to Full Council on 28 April 2022. The changes to the Constitution will come into effect on 18 May 2022, the start of the new Municipal Year.

5 **Biodiversity/environmental/sustainability implications**

- 5.1 Due to the bulk of the document, large numbers of printed copies will not be produced in order to reduce use of paper. As previously and in accordance with Article 15.03 (a) of the Constitution, it is proposed that a hard copy be provided for the Mayor, the Leaders of the political groups on the Council, each Committee Chairman, each Chief Officer and for Legal and Democratic Services Officers, with a few spares to meet the occasional request from members of the public. Otherwise this document will be freely available in downloadable form from the Council's website and a hard copy will be available for public inspection at the Civic Centre reception.

(To recommend to Full Council on 28 April 2022)

Background papers

Notes of Constitution Member Working Group Meetings

Internal emails relating to updates / changes to the Constitution held by Democratic Services Manager.