

Report of Head of Legal and Democratic Services and Monitoring Officer

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To: COUNCIL

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Review of the council's constitution

Recommendations

That Council:

1. notes the considerable work done by the Joint Constitution Review Group in bringing a revised constitution for consideration by Council;
2. notes that, for completeness, the entire constitution has been brought before Council for consideration, but that some sections have already been approved by Council; areas of substantive change are listed within the report, under key changes;
3. notes the ongoing overall approach of the review group to develop a single constitution with South Oxfordshire District Council with separate sections where necessary;
4. notes the overall approach to streamline the constitution, avoiding unhelpful repetition and confusion;
5. notes the overall approach to make sections self-contained, especially those relating to specific committees;
6. notes the more consistent approach given to the general governance of meetings, including: quorum, time limits and public speaking, the rules aiming to promote robust democracy and effective running of council meetings;
7. approves the constitution attached as appendix one to this report for implementation on 1 March 2017;
8. authorises the Head of Legal and Democratic Services to update the constitution to reflect any changes in staff responsibilities;
9. authorises the Head of Legal and Democratic Services to make any minor or consequential amendments to the constitution for consistency and to reflect the councils' style guide.

Purpose of Report

1. To consider the proposed revised constitution, which is now a joint constitution with South Oxfordshire District Council (with variances where necessary).

Strategic Objectives

2. The constitution underpins all of the council's areas of activities and, therefore, contributes to the achievement of all its strategic objectives.

Background

3. A full constitution review has been undertaken in pursuance of the requirements of Section 37 of the Local Government Act 2000 to keep the constitution under review. The purpose of this review is to make the constitution more user-friendly and accessible, bring it up to date and to achieve, as far as possible, a joint constitution for this council and South Oxfordshire District Council for the benefit of users who operate in or with both councils.
4. Where there are no political issues or essential differences, there will be a single constitution for both councils. Differences will be found under "mirror" sections. This will enable both councils to retain their own political priorities and local flavours whilst improving the user-friendliness of the documents. The approach will affect the order and structure of both constitutions and will be in a new format. Sections on committees will become self-contained, a particular benefit to councillors, officers and public users. Several time critical items were brought to Council earlier in the year, but the full constitution is now before Council for approval. Further revisions will be brought to Council as required in the future and there will be an annual review.
5. The Joint Constitution Review Group has met regularly to consider issues. This group comprised councillors Yvonne Constance, Stuart Davenport and Debby Hallett, plus three South Oxfordshire district councillors (Toby Newman, David Turner and Ian White). Officers from legal and democratic services have supported and advised the group. Additional councillors (e.g. committee chairmen and Cabinet members) together with specialist officers, attended the group as required. Items within this report have been agreed by the Review Group and group members have also consulted within their own political groups.
6. At its meeting in December 2015, Council approved revised scrutiny call-in arrangements and revised Officer Employment Procedure Rules which came into effect on 1 January 2016. At its meeting in July 2016, Council approved revised contract procedure rules, scheme of delegation, planning code of good practice and petition scheme which came into effect on 1 August 2016. This version of the constitution includes revisions to, or inclusion of, a summary and explanation of the constitution, the Council and committee procedure rules and the remaining elements of the constitution.

The key changes in this version are:

Summary and explanation

7. This section of the constitution will now be 10 pages long and includes some of the matters that were previously contained within the Articles which were 30 pages in length. It summarises the roles and responsibilities of councillors, the Chairman, Leader and statutory officers, rights of members of the public, and explains decision making and confidential/exempt information.

Procedure rules

8. All committees, Council and Cabinet, will now have a self-contained section which includes the terms of reference, procedure rules and relevant access to information rules. Combining these issues in one section provides a more user friendly document and reduces the need to cross-reference with other sections of the constitution.

Guillotine

9. All committees (not panels) will now have a time limit of two and a half hours with a maximum half an hour extension, by vote. This is irrespective of the start time of the committee.

Public speaking

10. The revised constitution includes provision for members of the public to ask a question, make a statement or present a petition for a period of 15 minutes at Council, Cabinet and committee meetings (the regulatory committees have their own rules). Each question or statement will be restricted to three minutes with no provision for a supplementary question. The deadline for making such a request will be 5.00pm on the day prior to the meeting.

Substitutes

11. For all committees where substitutes are allowed a system of preferred substitutes is proposed. In the case of regulatory committees all substitutes must have received training within the past 12 months.

Council Procedure Rules

12. The revised procedure rules are shorter, remove repetition, are more user friendly and include the following main changes:
 - To remove the provision for the Leader or the relevant committee chairman to have a right of reply on a motion or recommendation from a committee. The review group agreed that these councillors had an opportunity to contribute to the debate and that such a provision, whilst relevant during the days of the committee structure, was not required under the executive arrangement provisions.
 - The current rules of debate provide for the mover of an amendment to have the final right of reply on their motion. The review group agreed that the final right of reply should rest with the mover of the original motion which reflects the practice at other councils and is considered best practice.
 - Learning from the experience of practice of automatic recorded votes , there will no longer be automatically recorded votes where there is no consensus. A recorded vote will take place if requested by at least three councillors.

Cabinet

13. There are no significant changes from the current constitution. However, the Cabinet procedure rules consolidate all matters relating to Cabinet in one place, combining the Articles, access to information rules, and Cabinet procedures.

Licensing Matters

14. In order to streamline as much as possible, general licensing committee and licensing acts committees at both councils have been brought into alignment where legislation permits.
15. We have also produced a generic section on panel hearings, pulling together the common procedures. More details for each type of panel are held separately.

General Licensing Committee

16. There will be no substitute members, to align with Licensing Acts Committee.
17. A councillor shall not participate in the determination of any licensing application in their ward (this does not apply to taxi licensing.).

Licensing Acts Panels

18. There will be a twenty minute limit (subject to the chairman's discretion) for applicants (or their agents) and twenty minutes for representors as a group to make their statements.

Planning Committee

19. At its meeting in July 2016, Council approved changes to the scheme of delegation relevant to planning and a revised planning code of good practice both of which came into effect on 1 August 2016. Planning Committee procedure rules have now been produced.

Councillors' Roles

The Review Group agreed to include the following provisions in the constitution:

20. A councillor who is a member of both the general licensing committee/licensing acts committee and the planning committee shall only consider an application relating to a particular site or sites in their capacity as a member of one of those committees during a period of 12 months to avoid accusations of bias.
21. A councillor may not participate in decisions on applications in their wards on the licensing acts committee, general licensing committee or the planning committee.
22. No member of the cabinet shall act as chairman or vice-chairman of any committee or sub-committee (except the Joint Staff Committee) that exercise functions that may not be the responsibility of the cabinet in accordance with the Local Authorities (Functions and Responsibilities) Regulations 2000 or any amendments thereof.
23. The Chairman or Vice-Chairman of the Council shall not be elected as chairman or vice-chairman of any committee or sub-committee during their period of office

Scheme of delegation

24. The scheme of delegation has been updated to authorise the head of planning to collect and manage Community Infrastructure Levy income.

Councillor/officer protocol

25. A new councillor/officer protocol has been added to provide a guide to good working relationships between officers and councillors.

Local code of governance

26. The local code of governance has been harmonised across both councils. Evidence of compliance with the code of governance has been deleted from the constitution and will be reported annually to the joint audit and governance committee.

Implementation and training

27. It is proposed to implement the new constitution on 1 March 2017. This will give enough time to provide training for chairmen, committee members and officers.

Financial Implications

28. The democratic services budget for printing will meet the costs of producing copies of the amended constitution.

Legal Implications

29. Section 37 of the Local Government Act 2000 requires the Council to keep its constitution under review.

Conclusion

30. This report sets out proposals to amend the constitution. Officers and the Review Group recommend Council to approve the proposed changes for implementation from 1 March 2017 and to authorise the head of legal and democratic services to make these changes and any further minor or consequential amendments.

Background Papers

None