

Subject: COUNCIL DECISION OF 14 DECEMBER 2017 ON CONSTITUTION  
WORKING PARTY RECOMMENDATIONS

Report to: COUNCIL 20 FEBRUARY 2018

Report by: MONITORING OFFICER

### **SUBJECT MATTER/RECOMMENDATIONS**

1. Notice of Motion to Rescind a Previous Decision
2. To consider the recommendations of the Constitution Working Party in relation to:
  - i) the terms of reference of the Constitution Working Party
  - ii) the Scope of Motions
  - iii) the Member Learning and Development Group

### **1. INTRODUCTION/BACKGROUND**

At its meeting on 14<sup>th</sup> December 2017 Council made a decision in relation to the Constitution Working Party's report at Item 15 of the Agenda. The report detailed proposed changes to the Constitution and the delegation of authority to Group Leaders to appoint Members to the Member Learning and Development Group. It contained 4 recommendations under the following 3 headings:

- i) Terms of Reference of the Constitution Review Working Party
- ii) Scope of Motions
- iii) Member Learning and Development Group (2 recommendations)

At Council all 4 recommendations were addressed by a single, en bloc vote. The nature of that motion was not accepted by all members, as some believed they had voted only in relation to the first recommendation and would proceed to vote on the others individually.

The first, third and fourth recommendations were framed in the positive, the second recommendation in the negative. The motion to approve the recommendations (en bloc) was lost, from which it was inferred that:

- a) The proposed Terms of Reference for the CWP were not agreed

- b) The proposed amendments to the Scope of Motions were (by implication) agreed
- c) The proposed Terms of Reference for the Member Learning and Development Group were not agreed
- d) Group Leaders were not given delegated authority to appoint Members on the Member and Learning Group.

The Monitoring Officer does not find that recommendation b) should have been carried by implication and finds that a further motion, framed positively, should have been required, voted on and carried in order that the amendments proposed were accepted.

For the reasons set out above, 16 members acting under clause 31.14.1 of the Constitution have signed a Notice of Motion to rescind the previous decision, in order that each of the 4 recommendations may be properly considered and appropriate debate may take place, and in order that all decisions are properly taken by an appropriate motion and not by mere implication.

Only if the motion to rescind is carried by a vote of full Council will members be asked to consider afresh the recommendations of the Constitution Working Party set out at 6 below.

## **2. MAIN BODY**

At its meeting on 2 November 2017 the Constitution Working Party:

- 2.1 having considered the Monitoring Officer's report on the proposed terms of Reference of the Constitution Working Party, resolved to recommend that Council agree the proposed terms of Reference of the Constitution Working Party (attached as Annex 1) for inclusion in the Council's Constitution.
- 2.2 having considered the Monitoring Officer's report on the Scope of Motions, resolved to recommend to Council that the amendments to the Constitution proposed by the Monitoring Officer in respect of the scope of motions be rejected. The Monitoring Officer's proposals are set out below:

2.2.1 to add the following clause to the Constitution:

"If the subject matter of any Motion of which notice has been duly given comes within the province of any Sub-committee, Committee or Committees, it shall, upon being moved and seconded, stand referred without discussion to such Sub-committee, Committee or Committees as the Council may determine for consideration and report."

2.2.2 to reinforce the above rule, the MO recommended that at paragraph 31.13.10 (Motions which may be Moved during Debate) (d) should be amended to state:

“(d) to refer something to an appropriate body or individual”.

2.2.3 the MO also reported that Members should not be placed in a position where they are asked to make a decision outside the Council’s Budget and Policy framework without appropriate Officer advice and accordingly recommended that the following be added to the Constitution:

“The Monitoring Officer and section 151 Officer may reject a motion that impacts on the Policy and Budget framework of the Council and require that a report from an Officer be prepared before the matter can go forward to Council for consideration.”

2.3 having considered arrangements for membership of the Member Learning and Development Group and the proposed terms of reference of the Group, resolved to recommend that:

2.3.1 Council agree the proposed terms of reference for the Member Learning and Development Group (attached as Annex 2)

2.3.2 Council agree to delegate authority to Group Leaders to appoint Members to the Member Learning and Development Group (5 Members in total)

### **3. FINANCIAL IMPLICATIONS**

There are no financial implications.

### **4. RISK IMPLICATIONS**

The terms of reference take into account risk issues in the management of the committee’s business.

### **5. CONCLUSIONS**

Next Steps

Once members have decided on the proposals, the relevant amendments (if any) will be made to the Council’s Constitution **SAVE THAT** Members should be aware

that if they vote against recommendation 6.2, the proposed amendments are not then taken forward by implication, but would require a further motion to be carried (i.e. that the amendments be made to the Constitution) in order that the changes be put into effect.

## **6. CONSTITUTION WORKING PARTY'S RECOMMENDATIONS**

- 6.1 That Council agree the proposed Terms of Reference of the Constitution Working Party for inclusion in the Council's Constitution.
- 6.2 That Council reject the proposed amendments as outlined above by the Monitoring Officer in respect of the current provisions in the Constitution relating to the scope of motions.
- 6.3 That Council agree the proposed Terms of Reference for the Member Learning and Development Group.
- 6.4 That Council delegate authority to Group Leaders to appoint Members on the Member Learning and Development Group which shall be formed of 5 Members.

## **7. BACKGROUND PAPERS**

None

*Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?*

<b>Area for consideration</b>	<b>Comment</b>
Section 151 Officer Consultation:	No financial implications
Existing Council Policies:	Council's Constitution
Financial Implications:	None
Legal Implications (including human rights):	Monitoring Officer has cleared legal implications
Risk Implications:	No significant risk
Equality Issues/EQIA assessment:	No equality issues
Crime & Disorder:	No issues
Every Child Matters:	No issues

Subject: Terms of Reference of the Constitutional Review Working Party

Report to: Constitutional Working Party

Report by: Monitoring Officer

<b>SUBJECT MATTER/RECOMMENDATIONS</b>
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<b>To agree Terms of Reference of the Constitutional Review Working Party</b>
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1. Composition

- (a) Membership – to be determined by Full Council
- (b) Officers - meetings will be supported by the Head of Paid Service, Monitoring Officer, Corporate Governance Manager and any other Officer as required

2. Role and Function

- (a) The Constitutional Review Working Group shall report its work to Full Council
- (b) It will set its own work programme save the following bodies can request that it considers a particular item of work
  - Full Council
  - The Chairman of Audit and Risk Committee
  - The Monitoring Officer

3. Terms of reference

- The Constitution working party has no decision making power save that it shall act as a 'sounding board' for the delegated decision making power of the Monitoring Officer in relation to minor amendments to the Constitution
- It can invite any Member or Officer to speak on a particular item
- The agenda and minutes will be circulated to the Leader and other Group Leaders
- It can consider any constitutional or procedural matter concerning the Council
- It will assist the Audit and Risk Committee in undertaking regular reviews of the Council's Constitution
- It will make recommendations on changes to the Constitution, and other Council Procedures, to the Audit and Risk Committee and the Full Council

## **DRAFT TERMS OF REFERENCE FOR MEMBERS LEARNING AND DEVELOPMENT GROUP**

### **Membership**

The Members Learning and Development Group comprises of the following:-

*(List members once agreed)*

### **Scope and purpose of group**

To develop appropriate processes and activities which will ensure Members are supported and equipped with the necessary skills and knowledge to carry out their roles effectively in line with the Council's corporate plan

To report to the Policy and Resources Committee on the key recommendations of the Members learning and development group

### **Functions**

- To represent the views of all Members and to be champions for, and promote Member development among all Members
- To provide a strategic lead regarding learning and development support to Members ensuring that the support provided is consistent with the strategic direction of the Council
- To ensure that learning and development provision for Members meets the Council's requirements having regard to the changing roles and expectations of Members and that delivery is co-ordinated in a structured and manageable package for Members
- To ensure that Member learning and development activity builds elected member capacity to undertake the changing roles of Members
- To monitor and evaluate the effectiveness of Member learning and development activities
- To review and consider training and development needs with a view to producing an induction and an on-going training and development programme for Members