

Constitution Working Party

Minutes

Thursday, 02 November 2017 at 11:00

Present :-

Councillor Williamson (in the Chair); Councillors Carpenter, Plant, Thirtle, Walch, Walker and Wainwright.

Also in attendance :-

Mrs S Oxtoby (Chief Executive Officer), Mr D Johnson (Monitoring Officer), Mrs J Cooke (Head of Organisational Development), Mr R Hodds (Corporate Governance Manager), and Mr G Jones (Information Manager).

1 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Annison.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES

The minutes of the meeting held on the 23 January 2017 were confirmed.

4 TERMS OF REFERENCE OF THE CONSTITUTIONAL REVIEW WORKING PARTY

The Working Party considered the Monitoring Officer's report on the proposed Terms of Reference of the Constitution Working Party for inclusion in the Council's Constitution.

RECOMMENDED :

That Council be recommended to agree the proposed Terms of Reference of the Constitution Working Party for inclusion in the Council's Constitution.

5 REVISED CONSTITUTION

Following amendments agreed by the Working Party and Full Council at it's meeting in February 2017 the Monitoring Officer outlined the main amendments that had been made to the Council's Constitution as a result of the amendments agreed by Full Council.

Councillor Thirtle raised a query as to whether the Local Authority Trading Shareholder Committee should be referenced under the Policy issues to be considered by Full Council. The Monitoring Officer reported that this Committee should in fact be referenced through the Policy and Resources Committee. The Chairman also raised whether the Liaison Group in relation to GYB Services and GY Norse should also be referenced to report through to the Policy and Resources Committee. Members agreed that the Monitoring Officer would look into this issue.

With regard to Article 27 - review and revision of the Constitution, the Monitoring Officer reminded the Working Group that he had a duty to review and monitor the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and he advised Members that the Constitution was being monitored on almost a daily basis. He advised Members that his opinion was that the current Constitution was fit for purpose.

RECOMMENDED :

That the Monitoring Officer's report be received, and the amendments to the Constitution be noted.

6 PROTOCOL FOR MEMBERS TO INCLUDE ITEMS ON AGENDAS

The Working Party considered the Monitoring Officer's report on proposed amendments to the Constitution with regard to the Protocol for Members to include items on agendas.

The Monitoring Officer reported that Paragraph 48.4.1 relating to the general responsibilities of Committee Chairman states that the Chairman is responsible for the effective management of the Committee's business.

The Monitoring Officer reported that in the event of a Member considering that a matter should be included on an agenda but that the Chairman does not agree that it is proper or appropriate in such a case the Party Group Leaders and the Head of Paid Service may be consulted as to their views. If the deadlock could not be broken the Member may use the Constitutional provisions to present a Motion on the matter. This would have to satisfy the Rules and Standing Orders within the Constitution relating to Motions.

The Monitoring Officer stated that it was his view that the current provisions of the Constitution together with Common Law Rights gives sufficient safeguards and rights for Members and that no amendment to the Constitution would be required.

Councillor Plant raised a query as to why the current Committee system does not include a Scrutiny element, and the Monitoring Officer reported that under the Council's Committee system there is no requirement to have a separate Scrutiny function.

He reminded Members that Council had agreed when agreeing the arrangements for the Committee system that there would be no provision to establish a Scrutiny Committee.

RECOMMENDED :

That the Monitoring Officer's report be received, and that no amendments be made to the Constitution in respect of the Protocol for Members to include items on the agendas.

7 SCOPE OF MOTIONS

The Working Party considered the Monitoring Officer's report on proposed amendments to the Constitution in respect of Motions.

The Monitoring Officer reported that the rules in the Constitution as to the initial scope of Motions mirror those and other authorities namely the Motion must either relate to a Council function, or effect the area of the Borough.

If Motions satisfy the above criteria but were to cut across the processes already in train and place Members in the position of having to make a decision without Officer advice or financial analysis by the Section 151 Officer, then the Monitoring Officer reported that it would be appropriate 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 Committee's, it shall, upon being moved and seconded, stand referred without discussion to such Sub-Committee, Committee or Committee's as the Council may determine, for consideration and report.

The Monitoring Officer reported that this would accord for such provisions used by other Local Authorities.

To reinforce this business rule the Monitoring Officer recommended that 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.

The Monitoring Officer 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.

He recommended therefore that the following be added to the Constitution :-

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

RECOMMENDED :

That Council be recommended not to agree to the proposed amendments as outlined above by the Monitoring Officer in respect of the current provisions within the Constitution relating to the Scope of Motions.

8 MEMBER LEARNING AND DEVELOPMENT GROUP

The Working Party was reminded that it had previously agreed to establish a Member Learning and Development Group to consider an annual training and development programme for Members. The Working Party was now asked to consider the arrangements for Membership of that group and to also consider the proposed Terms of Reference for the group. The Working Group agreed that the Member Learning and Development should comprise 5 Members.

RECOMMENDED :

(1) That Council be recommended to agree the proposed Terms of Reference for the Member Learning and Development Group.

(2) That Group Leaders be given delegated authority to appoint Members on the Member Learning and Development Group. (5 Members)

9 ROLE OF COUNCILLOR ON OUTSIDE BODIES

Councillor Thirtle sought clarification with regard to the role of Councillors in their capacity as a representative on Outside Bodies. The Monitoring Officer explained the role of requirements for Members serving on Outside Bodies.

The meeting ended at: 12:05

Subject: Terms of Reference of the Constitutional Review Working Party

Report to: Constitutional Working Party

Report by: Monitoring Officer

SUBJECT MATTER/RECOMMENDATIONS

To agree Terms of Reference of the Constitutional Review Working Party

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

Area for consideration	Comment
Monitoring Officer Consultation:	Yes
Section 151 Officer Consultation:	No
Existing Council Policies:	Constitution
Financial Implications:	none
Legal Implications (including human rights):	Addressed in constitution
Risk Implications:	None
Equality Issues/EQIA assessment:	None
Crime & Disorder:	None
Every Child Matters:	None

Subject: Protocol for Members to include items on agendas

Report to: Constitutional Working Party

Report by: Monitoring Officer

SUBJECT MATTER/RECOMMENDATIONS

To consider amendments to the constitution in respect of agendas

The question has been raised with me as to how items are included on agendas for council committees.

The Constitution places this responsibility primarily with the Chairman (see below).

“48.4.1 General Responsibilities

48.4.1.1 The Chairman of a Committee is responsible for the effective management of the Committee’s business. In addition to the specific duties below, this involves:-

- (a) ensuring the overall effectiveness of the Committee, **including agenda planning;***
- (b) maintaining a public image that the work of the Committee is effectively managed; and*
- (c) ensuring that Committee Members are full involved in the deliberations of the Committee.”*

This accords with the general duties of a Chairman to achieve the following:-

- To provide confident and effective management of Council meetings to ensure involvement and clear decision-making;
- To ensure that interested parties are satisfied as to the openness and transparency of the meeting;
- To promote the role of the Council and liaise effectively with councillors, officers and external partners;
- To set agendas containing clear objectives and outcomes for the meeting;
- To manage the meeting in order to ensure that the meeting’s objectives are met, in line with meeting procedures;
- To ensure that any necessary preparation is done beforehand; and to ensure that all participants have an opportunity to make an appropriate contribution.
- To promote and support good governance of the Council as a whole.

- All of the above applies equally to the vice chairman and subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chairman may be done by, to or before the vice-chairman.

What if a member considers that a matter should be included on an agenda but the Chairman does not agree that it is proper or appropriate committee business? In such a case the party group leaders and Head of Paid Service may be consulted as to their views. If the deadlock cannot be broken the member may use the constitutional provisions to present a motion on the matter. This would have to satisfy the rules and standing orders within the constitution as to motions.

The constitutional rules as to motions apply equally to committees as they do to full council. (“ 31.24 **APPLICATION TO COMMITTEES AND SUB-COMMITTEES** *All of the Council Rules of Procedures apply to meetings of full Council. The rules apply to meetings of Committees and Sub-Committees so far as they are appropriate.*”).

RECOMMENDATION : It is my view that the above provisions together with common law rights give sufficient safeguards and rights for members and that no amendments to the constitution are required.

Area for consideration	Comment
Monitoring Officer Consultation:	Yes
Section 151 Officer Consultation:	No
Existing Council Policies:	Constitution
Financial Implications:	none
Legal Implications (including human rights):	Addressed in constitution
Risk Implications:	None
Equality Issues/EQIA assessment:	None
Crime & Disorder:	None
Every Child Matters:	None

Subject: Scope of Motions

Report to: Constitutional Working Party

Report by: Monitoring Officer

SUBJECT MATTER/RECOMMENDATIONS

To consider amendments to the constitution in respect of Motions

The rules in the constitution as to the initial scope of motions mirror those in other authorities – the motion must either:-

- relate to a council function, or
- affect the area of the Borough

If motions satisfied these criteria but were to cut across processes already in train and place members in the position of having to make a decision without officer advice or financial analysis by the Section 151 Officer then paragraph 31.13.10 (“Motions which may be moved during debate”) (d) below **“(d) to refer something to an appropriate body or individual”**

could be used to refer it to the appropriate service committee.

In order to make this entirely clear I would recommend amending (d) to say

“(d) to refer something to an appropriate body or individual **including to any committee or sub committee of the council**”,

“The following motions may be moved without notice:

(a) to appoint a Chairman of the meeting at which the motion is moved

(b) in relation to the accuracy of the minutes

(c) to change the order of business in the agenda

(d) to refer something to an appropriate body or individual

- (e) to appoint a Committee or Member arising from an item on the summons for the meeting
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them
- g) to withdraw a motion
- (h) to amend a motion (complex variations to be made in writing and a copy given to the Mayor and Corporate Governance Manager prior to the meeting)
- (i) to proceed to the next business
- (j) that the question be now put
- (k) to adjourn a debate

RECOMMENDATION: To amend paragraph 31.13.10 (d) of the Constitution as follows:-

“(d) to refer something to an appropriate body or individual **including to any committee or sub committee of the council**”,

Area for consideration	Comment
Monitoring Officer Consultation:	Yes
Section 151 Officer Consultation:	No
Existing Council Policies:	Constitution
Financial Implications:	none
Legal Implications (including human rights):	Addressed in constitution
Risk Implications:	None
Equality Issues/EQIA assessment:	None
Crime & Disorder:	None
Every Child Matters:	None

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