

Report of the Assistant City Solicitor to the meeting of Corporate Governance and Audit Committee on 17 April 2015

Subject:

AT

Review of the Constitution

Summary statement:

This report provides Members with details of proposed amendments to the Constitution for recommendation to Council to be implemented at the commencement of the municipal year 2015/16.

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1. Summary

- 1.1 This report provides Members with details of proposed amendments to the Constitution for recommendation to Council to be implemented at the commencement of the municipal year 2015/16.

2. Background

- 2.1 Article 14 of the Constitution requires the Monitoring Officer to maintain an up-to-date version of the Constitution and is authorised to make such amendments to the Constitution and related documents as may be necessary, but not including any changes of substance, to reflect and take account of changes in legislation, guidance, Council policy, decision of the Council and the Executive, and drafting changes and/or improvements.
- 2.2 Article 17 of the Constitution requires the Monitoring Officer to take steps to make himself/herself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement. Changes to the Constitution can only be made following approval by the full Council or by the Monitoring Officer, as at paragraph 2.1 above.
- 2.2 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 make changes to the provisions which apply to disciplinary action against the Head of Paid Service, Monitoring Officer and section 151 officer. The Regulations were made on 25 March 2015 and come into force on 11 May 2015. They require the Council to incorporate various provisions relating to such disciplinary action into its Constitution and modify the existing provisions of its Constitution so as to conform to the new provisions. This must be done by Council no later than the first ordinary meeting of Council falling after 11 May 2015. This will require a review of the provisions of Constitution relating to staffing issues and will be the subject of a further report by the Deputy Monitoring Officer to this Committee.
- 2.3 This report concerns proposals for certain decision making relating to community governance reviews to be delegated to this Committee.

3. Proposals for Community Governance Reviews

- 3.1 The Local Government and Public Involvement in Health Act 2007 devolved power from central government to principal councils, including this Council, to put in place appropriate arrangements for the governance of their areas at community level. In their White Paper, Strong and Prosperous Communities, the Government emphasised that *“Ultimately, the recommendations made in a community governance review ought to bring about improved community engagement, more cohesive communities, better local democracy and result in more effective and convenient delivery of local services.”*
- 3.2 Local people were given the right to initiate a community governance review by petitioning their district council. A petition could seek, among other things, the creation of a new parish, the abolition of an existing parish or an alteration to the area of a parish.

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- 3.3 To be valid, a community governance petition must meet various conditions set out in the Act including conditions about the number of local government electors who must sign the petition, the area that petitioners wish to see considered as part of a review and the specifying of recommendations which the petitioners wish a community governance review to consider making. There are rules on what a principal council must do if, for example, it is already conducting a community governance review in the relevant area or has done so recently.
- 3.4 The procedure then allows for a principal council to determine the terms of reference under which a community governance review must be undertaken and requires the terms of reference to specify the area under review. The terms of reference must then be publicised.
- 3.5 During the community governance review the principal council must consult local people and take account of any representations received in connection with the review. When undertaking the review the principal council must have regard to the need to secure that community governance reflects the identities and interests of the community in the area under review, and the need to secure that community governance in that area is effective and convenient.
- 3.6 Principal councils must consider the wider picture of community governance in carrying out their reviews. They must have regard to well established forms of community governance in the relevant area such as local residents' associations, community forums or Area Committees.
- 3.7 Principal councils have the power to implement by order the outcome of a community governance review, with the exception of related alterations to district ward or county division boundaries which are implemented by the Electoral Commission.
- 3.8 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) provide that functions in relation to community governance reviews, including functions relating to the terms of reference are not to be the responsibility of a Council's Executive. As the Constitution is currently drawn this means that the key decision making steps in relation to community governance reviews are matters for full Council. It is proposed that the terms of reference of this Committee, be amended so as to add the following:

9.4.18 In relation to community governance reviews:

- 9.4.18.1 Determine the validity of community governance petitions under section 80 of the Local Government and Public Involvement in Health Act 2007.*
- 9.4.18.2 Consider the Council's duties in responding to a community governance petition and determine what that response should be in accordance with sections 83, 84 and 85 of the Act*
- 9.4.18.3 Determine the terms of reference of a community governance review under section 81 of the Act.*
- 9.4.18.4 Carry out a community governance review under section section 82 and in accordance with section 93 of the Act and*

make recommendations in accordance with sections 87 to 92 of the Act for the approval of full Council

- 3.9 The delegation of these elements of the community governance review process to this Committee will allow for the more timely and effective conduct of reviews while reserving the final decision to full Council

4. Financial and Resource Appraisal

- 4.1 The resources required to amend the Constitution can be met from existing provision.

5. Legal Appraisal

- 5.1 As set out at section 3 above. Functions in relation to community governance reviews are not to be the responsibility of the Executive and it is a matter for full Council as to whether they should be delegated to this Committee.

6. Other Implications

- 6.1 There are no equal rights, sustainability, community safety, Human Rights Act or trade union implications of this report.

7. Not for Publication Documents

- 7.1 None

8. Recommendations

- 8.1 That Governance and Audit Committee recommend to Council the amendment to Article 9 of the Constitution set out at paragraph 3.8 of this report.

9. Background Papers

- 9.1 Guidance on Community Governance Reviews (Department for Communities and Local Government and Local Government Boundary Commission for England) [May 2010] at:

<https://www.gov.uk/government/publications/community-governance-reviews-guidance>