

COUNCIL

29 MARCH 2022

JOINT REPORT OF THE MONITORING OFFICER & THE CABINET

A.4 REVIEW OF THE CONSTITUTION

(Report prepared by Ian Ford, Committee Services Manager)

PURPOSE OF THE REPORT

In accordance with the provisions of Article 15.02 (a) and (c) of the Council's Constitution, to approve the recommended changes to the Constitution put forward by the Monitoring Officer and the Cabinet following a review undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.

BACKGROUND

On 25 February 2021 Cabinet considered a report of the Corporate Finance and Governance Portfolio Holder which requested it to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder through a Working Party constituted for this purpose.

The main proposals cover a number of miscellaneous amendments to the Council Procedure Rules, Articles of the Constitution, Overview and Scrutiny Procedure Rules, the Property Dealing Procedure and the Procurement Procedure Rules in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level. The key changes to each of these documents are highlighted within the body of this Report.

In addition, there are proposals relating to matters including the size of Committees (following a review previously requested by Full Council), start times for meetings of the Council and various Committees, consideration of motions at Full Council meetings, training for members of an overview and scrutiny committee, moving to a "paperless" working environment, and a protocol for the live webcasting of meetings.

The Portfolio Holder's report and accompanying appendices which were considered by Cabinet at its meeting on 25 February 2022 are attached as Appendices to this report.

The Cabinet's decision at its meeting held on 25 February 2022 was as follows:-

"RESOLVED -

1. *That Cabinet **RECOMMENDS TO COUNCIL** that:*

(a) the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices A – K, & M attached hereto this report, and that those changes come into effect on 27th April 2022 i.e. the day after the Annual Meeting of the Council;

(b) with effect from the Annual Meeting of the Council on 26 April 2022, the Committees listed below be reduced in size as follows:-

Audit = 5 Members (from 7 Members);

*Human Resources & Council Tax = 7 Members (from 9 Members);
Licensing & Registration = 7 Members (from 9 Members); and
Planning Policy & Local Plan = 9 Members (from 11 Members).*

- (c) the Review of the Constitution Portfolio Holder Working Party be requested to carry out a fundamental review during 2022 of the way in which Motions to Council, submitted in accordance with Council Procedure Rule 12, are dealt with procedurally and that the results of that review be submitted to Full Council, via the Cabinet, in due course.*
- (d) commencing with the newly elected Council in May 2023, Members of the Tendring District Council will operate in a “paperless” environment e.g. by providing agendas/reports etc. to Members by electronic means only and to cease entirely the provision of printed (and posted) copies of such documents.*
- (e) in the meantime Members of the Tendring District Council continue to be encouraged to give their consent for the Council and Committee Agendas to be transmitted (i.e. sent) in electronic form to a particular electronic address rather than by a paper copy through the post.*
- (f) in relation to Council Procedure Rule 33.3 (Training Members of the Audit, Licensing and Registration, Planning and Standards Committees), the Monitoring Officer be authorised to define what is meant by the word “mandatory” and to also decide whether the training offered/provided is/was sufficient and “fit for the purpose” to be contained within guidance and issued to members of those Committees accordingly.*
- (g) the reduction in the number of formal scheduled meetings for the Council’s overview and scrutiny committees should be maximised to focus on the principles established in the Executive – Overview & Scrutiny Protocol and work of the Centre for Governance and Scrutiny over the next year, particularly with regard to the use of task and finish groups and researched and evidenced reviews on specific topics linked to the Council’s Corporate Plan.*
- (h) the Protocol for the webcasting and public filming and recording of meetings of the Full Council, Cabinet and Committees, as set out in Appendix L, be approved and incorporated into Part 6 of the Constitution and that it comes into effect on 27th April 2022 i.e. the day after the Annual Meeting of the Council.*
- (i) Council notes that the Monitoring Officer intends to exercise her delegated powers (as a result of management restructures and legislative requirements) and make appropriate amendments to the Constitution in relation to the following matters:-*
- Article 12 (Officers);*
 - Removal of those provisions within the Council’s Constitution that had been inserted in accordance with the (now defunct) “Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 [SI 2020/392]”;*
 - The terms of reference and delegated powers of the Human Resources & Council Tax Committee and its Sub-Committee; and*
 - The list of Proper Officers within the Scheme of Delegation.”*

For Full Council’s information only the Cabinet further **RESOLVED –**

2. *“That Cabinet agrees that:*

- (a) the definition of a Key Decision, as contained in Article 13.03 of the Council’s Constitution, be reviewed as part of the annual review of the Council’s Treasury Strategy;*
- (b) the Councillor Development Portfolio Holder Working Party be requested to consider and report back to Cabinet whether, in the light of the Centre for Governance & Scrutiny’s recommendation, members of this Council’s overview and scrutiny committee(s) should receive mandatory training; and*
- (c) the Deputy Chief Executive & Monitoring Officer be requested to produce and submit to the Leader of the Council, for his consideration, terms of reference and a scheme of delegation for a Road Naming Portfolio Holder Working Party.”*

RECOMMENDATION

That, subject to Members’ consideration of the recommendations of the Cabinet arising from its meeting on 25 February 2022, Council resolves that:

- (a) the Council’s Constitution be amended to reflect the proposed changes, as set out in Appendices A – K, & M attached hereto this report, and that those changes come into effect on 27th April 2022 i.e. the day after the Annual Meeting of the Council;**
- (b) with effect from the Annual Meeting of the Council on 26 April 2022, the Committees listed below be reduced in size as follows:-**

Audit = 5 Members (from 7 Members);
Human Resources & Council Tax = 7 Members (from 9 Members);
Licensing & Registration = 7 Members (from 9 Members); and
Planning Policy & Local Plan = 9 Members (from 11 Members).
- (c) the Review of the Constitution Portfolio Holder Working Party be requested to carry out a fundamental review during 2022 of the way in which Motions to Council, submitted in accordance with Council Procedure Rule 12, are dealt with procedurally and that the results of that review be submitted to Full Council, via the Cabinet, in due course.**
- (d) commencing with the newly elected Council in May 2023, Members of the Tendring District Council will operate in a “paperless” environment e.g. by providing agendas/reports etc. to Members by electronic means only and to cease entirely the provision of printed (and posted) copies of such documents.**
- (e) in the meantime Members of the Tendring District Council continue to be encouraged to give their consent for the Council and Committee Agendas to be transmitted (i.e. sent) in electronic form to a particular electronic address rather than by a paper copy through the post.**
- (f) in relation to Council Procedure Rule 33.3 (Training Members of the Audit, Licensing and Registration, Planning and Standards Committees), the Monitoring Officer be authorised to define what is meant by the word “mandatory” and to also decide whether the training offered/provided is/was sufficient and “fit for the purpose” to be contained within guidance and issued to members of those Committees accordingly.**

- (g) the reduction in the number of formal scheduled meetings for the Council’s overview and scrutiny committees should be maximised to focus on the principles established in the Executive – Overview & Scrutiny Protocol and work of the Centre for Governance and Scrutiny over the next year, particularly with regard to the use of task and finish groups and researched and evidenced reviews on specific topics linked to the Council’s Corporate Plan.
- (h) the Protocol for the webcasting and public filming and recording of meetings of the Full Council, Cabinet and Committees, as set out in Appendix L, be approved and incorporated into Part 6 of the Constitution and that it comes into effect on 27th April 2022 i.e. the day after the Annual Meeting of the Council.
- (i) it is noted that the Monitoring Officer intends to exercise her delegated powers (as a result of management restructures and legislative requirements) and make appropriate amendments to the Constitution in relation to the following matters:-
- Article 12 (Officers);
 - Removal of those provisions within the Council’s Constitution that had been inserted in accordance with the (now defunct) “Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 [SI 2020/392]”;
 - The terms of reference and delegated powers of the Human Resources & Council Tax Committee and its Sub-Committee; and
 - The list of Proper Officers within the Scheme of Delegation.

BACKGROUND PAPERS

Published Minutes of the formal meeting of the Cabinet held on 25 February 2022.

APPENDICES

A.4

APPENDIX A	Part 4	<u>Amended Council Procedure Rules – Section One</u>
APPENDIX B	Part 4	<u>Amended Council Procedure Rules – Section Two</u>
APPENDIX C	Part 2	Articles of the Constitution – Article 7 (Executive)
APPENDIX D	Part 2	Articles of the Constitution – Article 3 (Citizens and the Council)
APPENDIX E	Part 3	Delegated Powers (Chief Executive)
APPENDIX F	Part 3	Delegated Powers (Audit Committee)
APPENDIX G	Part 5	Property Dealing Procedure – Amendment
APPENDIX H	Part 5	Procurement Procedure Rules – Amendment
APPENDIX I	Part 2	Articles of the Constitution – Article 13 (Decision Making)
APPENDIX J	Part 2	Articles of the Constitution – Article 6 (Overview and Scrutiny Function)
APPENDIX K	Part 5	Overview and Scrutiny Procedure Rules - Amendments

APPENDIX L		Protocol for Webcasting and for Public Filming and Recording of meetings of the Full Council, Cabinet and Committees
APPENDIX M	Part 2	Articles of the Constitution – Article 2 (Members of the Council)
APPENDIX N		Report of the Corporate Finance and Governance Portfolio Holder which was submitted to the meeting of the Cabinet held on 25 February 2022