

CABINET

15 DECEMBER 2023

REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER

A.3 PROPOSED MINOR AMENDMENTS TO THE COUNCIL'S CONSTITUTION

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve the recommended changes to the Constitution (Council Procedure Rules) for referral onto Full Council following a review undertaken by the former Portfolio Holder for Corporate Finance and Governance (Councillor Guglielmi) through the Councillor Development Portfolio Holder Working Party.

The proposals cover amendments to the Council Procedure Rules 33.3, 34.3 and 34.4, in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level and to be an expression of best practise and meet expectations of Members.

In addition, this report sets out an update in relation to proposals for amendments to the terms of reference and delegated powers of the Human Resources & Council Tax Committee and its sub-committee.

EXECUTIVE SUMMARY

The Councillor Development Portfolio Holder Working Party (CDWP) met on 23 January 2023. At that meeting the Working Party, inter alia, had considered existing areas of mandatory training together with whether such mandatory training should be expanded to cover other areas such as for members of the Council's overview and scrutiny committee.

In addition, the review of the terms of reference and delegated powers of the Human Resources and Council Tax Committee and its sub-committee to be conducted in accordance with Full Council's decision taken on 29 March 2022 will be undertaken as part of this year's annual review of the Constitution.

A summary of the proposed changes compared to the existing CPRs 33.3, 34.3 and 34.4 is provided in the background section of this report.

RECOMMENDATION

That Cabinet RECOMMENDS TO COUNCIL that the Council's Constitution be amended to reflect the proposed changes as set out in Appendix 1 attached hereto this report.

REASON(S) FOR THE RECOMMENDATION(S)

Having considered the outcome of the review of the mandatory training of Members carried out by the Councillor Development Portfolio Holder Working Party and the Portfolio Holder's recommendation arising therefrom, and in order to enable that recommendation to be submitted to the Full Council for approval and adoption.

ALTERNATIVE OPTIONS CONSIDERED

- (1) Not to approve the recommendation;
- (2) To amend or substitute the recommendation.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Agreeing the proposed changes will ensure that the Council demonstrates good governance and operates efficiently in pursuit of its priorities.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The outcome of the review of the mandatory training carried out by the Councillor Development Portfolio Holder Working Party is reported elsewhere in this report.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES/NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	Not Applicable in this instance

X The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority considers appropriate.

Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by Full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance. Article 15 also provides authority to the Monitoring Officer to make minor changes to the Constitution arising from changes to the organisational structure of the Council.

Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date. This function takes into account legislative requirements and best practice.

FINANCE AND OTHER RESOURCE IMPLICATIONS	
Risk	
Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's overall governance arrangements.	
X	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
There are no further comments over and above those set out elsewhere in the report.	
USE OF RESOURCES AND VALUE FOR MONEY	
The following are submitted in respect of the indicated use of resources and value for money indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	N/A
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	N/A
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	N/A
MILESTONES AND DELIVERY	
Review of the mandatory training of Members carried out by the Councillor Development Portfolio Holder Working Party – 23 January 2023.	
Submission of Corporate Finance & Governance Portfolio Holder's and the Monitoring Officer's recommendations to formal Cabinet meeting – 15 December 2023.	
Submission of Cabinet's recommendations to Full Council for approval and adoption – 30 January 2024.	
Publication of approved changes to the Constitution – Early February 2024.	
[Review of the terms of reference and delegated powers of the Human Resources and Council Tax Committee carried out by the Monitoring Officer – December 2023 & January 2024 (as part of the 2023 Annual Review of the Constitution).]	
ASSOCIATED RISKS AND MITIGATION	
Not implementing the amendments to the Constitution will negatively impact the Council's governance arrangements.	
EQUALITY IMPLICATIONS	
The purpose of the Constitution is to:	
<ol style="list-style-type: none"> 1 Provide key elements of the Council's overall governance arrangements; 2 Enable decisions to be taken efficiently and effectively; 3 Create an effective means of holding decision-makers to public account; 	

- 4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District;
- 5 Support the involvement of the local community in the process of local authority decision making;
- 6 Ensure that no one will review, or scrutinise, a decision in which they were directly involved;
- 7 Help Councillors represent their residents more effectively;
- 8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and
- 9 Provide the framework and structure in which cost effective quality services to the community are delivered.

SOCIAL VALUE CONSIDERATIONS

None

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

No direct implications.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	None
Health Inequalities	None
Area or Ward affected	None directly

PART 3 – SUPPORTING INFORMATION

BACKGROUND

At its further meeting held on 23 January 2023 the CDWP reviewed various Council Procedure Rules and the following changes are recommended (note that references to Part numbers relate to the Constitution prior to any amendments now submitted):

(a) Council Procedure Rules – Section 2 (Committee Meetings)(Part 4.28 to 4.34):

Rule 33.3 – Training Members of the Audit, Licensing & Registration, Planning and Standards Committees (Part 4.29)

To include within this Rule that members of the Human Resources & Council Tax Committee must receive mandatory training in relation to determining Employment Appeals (for specific senior officer posts) in order to be able to sit on a Personnel Appeals Sub-Committee of that Committee.

To broaden the reference to training for Licensing & Registration Committee members to include all aspects of licensing legislation and not just the Licensing Act 2003.

To also include within this Rule that members of the Council's overview and scrutiny committees must receive mandatory training on work programming and questioning skills.

Rule 34.3 – Training Substitute Members of the Audit, Licensing & Registration, Planning and Standards Committees (Part 4.30)

To include within this Rule that substitute members of the Human Resources & Council Tax Committee must receive the required mandatory training.

To also include within this Rule that substitute members of the Council's overview and scrutiny committees must receive the required mandatory training.

Rule 34.4 – Substitute Members of the Audit, Licensing & Registration, Planning and Standards Committees (Part 4.30 to 4.31)

Consequential amendments made in order to take into account the above changes.

*The proposed changes to Council Procedure Rules 33.3, 34.3 and 34.4 (Section 2) are shown in **RED** and **PURPLE** in **Appendix 1**.*

PREVIOUS RELEVANT DECISIONS

Cabinet, at its meeting held on 25 February 2022 (Minute 134 – Resolution 2 refers), decided, inter alia, as part of its decision on the annual review of the Constitution, that:

“2. That Cabinet agrees that:

(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”

Full Council, at its meeting held on 29 March 2022 (Minute 150 – resolution (i) refers), decided inter alia, as part of its decision on the annual review of the Constitution, that:

“(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:-

- The terms of reference and delegated powers of the Human Resources & Council Tax Committee and its Sub-Committee; and”***

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Notes of the meeting of the Councillor Development Portfolio Holder Working Party held on 23 January 2023.

APPENDICES

A.3 Appendix 1 – Proposed amendments to Council Procedure Rules 33.3 & 34.3 & 34.4

REPORT CONTACT OFFICER(S)

Names

Ian Ford

Job Titles

Committee Services Manager

Email/Telephone

iford@tendringdc.gov.uk

(01255) 686 584