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Subject to approval at the next Constitution Working Party meeting

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CONSTITUTION WORKING PARTY

5 December 2022 at 6.00 pm

Present: Councillors Bower (Chair), Cooper (Vice-Chair), Coster, Bennett, Chace and English.

Councillors Mrs Cooper and Gunner were also in attendance at the meeting.

1. APOLOGIES FOR ABSENCE

An Apology for Absence had been received from Councillor Yeates.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

3. START TIMES

The Working Party

RESOLVED

That its start times for meetings for the remainder of the municipal year be 6.00 pm.

4. MINUTES

The minutes of the meeting of the Working Party held on 11 April 2022 were approved as a correct record with the Chair confirming that these would be signed at the end of the meeting.

5. ITEMS NOT ON THE AGENDA THAT THE CHAIR OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

The Chair confirmed that there were no urgent matters for this meeting to consider.

6. UPDATES TO THE CONSTITUTION

The Chair invited the Group Head of Law & Governance and Monitoring Officer to present his report. It was explained to the Working Party that it presented various changes required to the Constitution both as a result of recent changes to the Council's officer structure and additional proposed updates deemed necessary to give effect to the operation of the Constitution.

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The report had been divided into several sections to identify the various changes that needed to be considered. It asked the Working Party to accept these changes so that recommendations could be made to the next meeting of Full Council on 18 January 2023.

Appendix 1 to the report contained those sections of the Constitution that required updating. All of the Monitoring Officer's proposed amendments had been set out using tracked changes and related to:

- Part 2 – Articles
- Part 3 – Responsibility for Functions
- Part 4 – Officer Scheme of Delegation (General Principles)
- Part 5 – Section 1 – Council Procedure Rules
- Part 6 – Section 3 – Financial Procedure Rules
- Part 6 – Section 4 – Contract Standing Orders
- Part 6 – Section 5 – Officer Employment Rules
- Part 7 – Section 1 – Chief Executive Authorisations to Directors

Other more detailed changes required to the Constitution were highlighted and explained by the Monitoring Officer as summarised below:

- Article 14 – Review and Revision of the Constitution – 2.0 - Changes to the Constitution. As it stood, Full Council had delegated authority to the Monitoring Officer to make constitutional changes in consultation with the Chair of the Working Party and distributed to Members at least three working days in advance of a Full Council meeting. The Monitoring Officer highlighted that he had no delegated authority or ability to make the consequential changes highlighted in Appendix 1 in respect of job titles, names or reporting lines. To enable the Monitoring Officer in the future to make such amendments, without the need to refer to the Working Party and Full Council, the amendment below was proposed. It was highlighted that this would save both Member and Officer time and would enable revisions to be published promptly.

In reviewing the proposed wording to (ii) following discussion, this was agreed but that any amendments should be in consultation with the Chair of the Constitution Working Party. The amendment was therefore amended to read below with additions shown in **bold**:

*The Monitoring Officer, in consultation with the Chair of the **Constitution Working Party**, to make consequential amendments to any names, job titles and reporting lines within the Constitution and other constitutional documents resulting from reorganisation or changes in structure/position, and any typographical errors”.*

The Working Party also agreed that this should form 2.0 (iii) and not 2.0 (ii).

- Part 5 – Rules of Procedure (Meetings) – Section 1 – Council Procedure Rules – Rule 12 [Questions by Members of the Public] – 12.1 – Submitting Questions (b) where questions could be rejected. Currently, questions could be rejected by the Chief Executive/Chair. However, this implied either the Chief Executive or the Chair. The change to include the wording after Chief Executive, in consultation with the Chair, was proposed to reflect best practice. This change was approved by the Working Party.
- Part 7, Section 2, Officer Scheme of Management [Group Heads], had been updated following the July 2022 restructure. The Working Party noted that this was approved by the Chief Executive and Directors flowing down from those delegations that Full Council had given to the Chief Executive and Directors under Part 7 – Section 1. Therefore, the Group Head delegations at Section 2 had been included in Appendix 1 for the Working Party's information only. It was noted that no additional officer delegations were sought in this report.

The Chair then invited questions. Debate took part on the following:

- Article 14 – 2.0 – Changes to the Constitution in terms of the three working days' notice provided to distribute changes to the Constitution ahead of Full Council. The point was made that this needed to be 5 working days. Following lengthy debate, no changes were made.
- Part 7 – Management Structure, Delegations & Authorisations – Section 1 – Chief Executive's Scheme of Delegation – Paragraph 1.13 – the wording in **bold** was requested to be added to read as follows:

“At the end of each year, Directors will (when required) provide confirmation **to the Group Head of Finance and Section 151 Officer** of their compliance with this Scheme of Authorisation as part of the input to the preparation of the Council's Annual Governance Statement”.

This was agreed by the Monitoring Officer and the Working Party.

- Part 3 – Responsibility for Functions – Housing & Wellbeing Committee – Specific Functions – reporting irrecoverable debt. Could the functions for this Committee and any others be changed to stop these reports coming to Committee? These reports were only for noting and in view of the circumstances sitting behind each debt case, nothing could be changed. The Monitoring Officer confirmed that he would be happy to review the level of delegation to Officers around the area of write-offs and would look to see the approach of other councils in a Committee system so that a report could be considered at a future meeting of the Working Party.

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The Working Party then turned to Section 4.5 of its report where a request had been made by Councillor Coster for the Working Party to consider the reintroduction of the Recission provisions and amendment to the existing Recovery and Referral provisions as these were seen to be unworkable. The background regarding the removal of Council Procedure Rule 19.1 [Motions to Rescind a Previous Decision] was discussed. The Working Party had also been provided with two confidential legal opinions recommending the reinstatement of this rule.

A lengthy discussion took place with points made by the Working Party bullet pointed below:

- The views of the Working Party were split with some Members agreeing that the recission provision should be reintroduced with others disagreeing.
- If reintroduced, there needed to be a limit in terms of Councillors requesting that a decision be rescinded [cross-party] and a timeframe introduced.
- The Council Procedure Rules covering Notices of Motion needed to be reviewed. The current rules did not work with the new Committee system. A review was needed looking at other Council's constitutions who operated a Committee system.
- Should a scrutiny committee be introduced?

In response to the many views expressed and points raised, the Monitoring Officer confirmed that it was unusual for a council not to have a recission provision in its Constitution. In view of the varying points made, he confirmed that subject to the agreement of the Working Party, he would be happy to undertake some further work and review the practice of other councils and bring a further report back to the Working Party. This was agreed. The Working Party also agreed that the Referral and Recovery Procedure Rules would also be reviewed as part of this exercise.

A list of areas that required review had been supplied by Councillor Coster and emailed to Members of the Working Party prior to the meeting. Following considerable discussion, the Working Party agreed that the following areas be reviewed at this time in addition to recission and referral and recovery procedure rules:

- Notices of Motions [Council Procedure Rules]
- Public Question Time [Full Council and Committee Procedure Rules]
- General Questions from Members [Full Council]

It was further agreed that the other requests for review by Councillor Coster would be considered separately by the Monitoring Officer with the Monitoring Officer requesting Members to provide more notice if they had items that they wanted reviewing.

The Working Party

RECOMMEND TO FULL COUNCIL

That the proposed amendments set out within the body of Appendix 1 be approved, to include the amendments made earlier in the meeting as set out within the minutes.

The Working Party also

RESOLVED

That the Group Head of Law & Governance and Monitoring Officer undertake further review of the following areas of the Constitution:

- Part 3 – Responsibility for Functions – Committees in terms of approving cases for Write-Offs, looking at write-off levels, in respect of tenant arrears; rent arrears and other debts; Council Tax and National Non-Domestic Rates to include Part 6 – Financial Procedure Rules
- Part 5 – Rules of Procedure (Meetings) Section 1 – Council Procedure Rules in respect of Questions by Members of the Public; Notices of Motion; Referral and Recovery; Previous Decisions and Motions – Motion to Rescind a previous decision; and General Questions from Members.
- Part 5 – Rules of Procedure (Meetings) – Section 2 – Committee Procedure Rules – Questions by Members of the Public.

(The meeting concluded at 8.10 pm)

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