



Minutes of the meeting of the CONSTITUTION COMMISSION held on THURSDAY 18 OCTOBER 2018 at 2.00 pm

Present: Councillor Morris (Chair)
Councillors R Bradburn and Miles (substitute for Councillor Marland)

Officers: K Hulatt (Principal Solicitor - Litigation), D Ngani-Oketch (Principal Solicitor - Contracts, Procurement and Governance), N Roy (Principal Solicitor), S Taylor (Senior Planning Officer), O Shiridzinodya (Trainee Solicitor) and S Heap (Committee Services and Scrutiny Manager)

Apology: Councillor Marland

CC12 MINUTES

RESOLVED -

The minutes of the meetings of the Commission held 26 September 2018 be agreed and signed by the Chair as a correct record.

CC13 REVIEW OF COUNCIL PROCEDURE RULES 2018/19

Further to Minute CC09 of its meeting held on 26 September 2018, the Commission considered an update on the review and updating of the Council's Rules of Procedure in time for the Commission's meeting in December 2018.

The Commission noted that:

(a) Contract Procedure Rules

The Contract Procedure Rules needed to be updated to cover the provisions of Public Contracts Regulations 2015, to reflect the change of the Council's financial key decision limit to £500,000 and to reflect the approved change to procedure for contracts with a value of up to £25,000.

As part of the review officers were also reviewing the Contract Procedure Rules to ensure that they were robust and comprehensive and contained provisions which enabled the use of all permitted procurement procedures, the establishment and use of Dynamic Purchasing systems, and such other matters as state aid, Contracts Finder requirements and information relating to Concession Contracts.

(b) Financial Regulations / Acquisition and Disposal of Land and Buildings Procedure Rules

There was considerable duplication between the Acquisition and Disposal of Land and Building Rules and the Financial Regulations. Therefore the Financial Regulations were being reviewed with a view to incorporating any provisions from the Acquisition and Disposal of Land and Building Rules as necessary. Officers are also looking to update the Financial Regulations in order to clarify certain other matters, including the Council acting as a guarantor in matters of pension bonds.

(c) Access to Information Rules - Procedure for the Determination of Planning Applications – Public Participation and Procedure for the Determination of Licensing Applications by the Licensing Committee

The public speaking rights for the Development Control Committee were in the process of being reviewed, the most likely significant changes were to reduce the speaking time from 3 minutes to 1 minute, remove the ability for objectors to ask officers questions at Development Control Committee meetings and remove the submission of deputations and petitions to Development Control Committee.

With regard to the procedure for the determination of licensing applications by the Licensing Committee the procedure had been reviewed to ensure that it reflected the restrictions on those who could address a Licensing Sub-Committee in line with licensing legislation and the Council was protected from any potential appeal for hearing evidence in a licensing application that breached legislation and could subject the Council to a legal challenge.

(d) Budget and Policy Framework Procedure Rules

Work was underway to consider incorporating the Policy Framework which was currently included in Article 4 of the Constitution as part of the Budget and Policy and Framework Procedure Rules, which could also potentially be linked to the Financial Regulations.

(e) Officer Employment Procedure Rules

The Officer Employment Procedure Rules required updating to fully meet the requirements of the 1993 and 2001 Standing Orders Regulations as amended, and good employment practice, specifically:

- (i) to detail a process to review the Chief Executive and Chief Officer Terms and Conditions of Service;
- (ii) to recognise the need for the Council to establish a non-executive body that would deal with staffing

matters, such as an employment committee or similar and which would have the power to suspend the Chief Executive and take disciplinary action against JNC Chief Officers;

- (iii) to recognise the need for the Council to establish a panel of Independent Persons who would form part of the disciplinary process for the dismissal of a statutory officer;
- (iv) the need for the Council to consider the potential dismissal of a statutory officer, including consideration of representations from the Independent Persons;
- (v) to establish an appeal process for disciplinary action against a statutory officer that is unlikely to amount to gross misconduct or that will be unlikely to lead to dismissal; and
- (vi) to establish a process to allow frivolous or vexatious claims or matters that should be dealt with elsewhere to be ruled out.

The Commission specifically considered a number of issues relating to the Council Procedure Rules, Cabinet Procedure Rules and Overview and Scrutiny Procedure Rules, including comments submitted by the Leader of the Council.

RESOLVED –

1. That the work of the Officer Working Group in reviewing the Constitution and providing proposed updates in line with the external health check be noted.
2. That the progress made by officers to review and update the Contract Procedure Rules be noted.
3. That the progress made by officers to update the Financial Regulations be noted.
4. That the progress made by officers to update the Access to Information Rules, specifically, the procedure for the determination of planning applications – public participation be noted.
5.
 - (a) That the Acquisition and Disposal of Land and Buildings Procedure Rules be reviewed and retained as part of the Constitution if necessary.
 - (b) That appropriate Group representatives be consulted on the need for retaining the Acquisition and Disposal of Land and Buildings Procedure Rules.
6. That the Council, as part of the final draft Constitution, be recommend to agree the updated Procedure for the

Determination of Licensing Applications by the Licensing Committee.

7. That the Council Procedure Rules, Cabinet Procedure Rules and Overview and Scrutiny Procedure Rules be revised in line with the comments as set out in the Annex to the Minutes.
8. That the progress made by officers to update the Budget and Policy Framework Procedure Rules noted and appropriate Group representatives be consulted on the on the revisions.
9. That progress made by officers to review Officer Employment Procedure Rules noted, including that the draft Procedure Rules would be sent to members of the Joint Negotiating Committee (Employers Side) for comment.
10. That officer colleagues be requested to provide a brief summary of the changes made to each set of Procedure Rules to allow councillors to understand the main thrust of the changes and what they are intended to achieve.
11. That That a meeting a further meeting of the Commission to review any completed Procedure Rules and updated documents relating to phase one of the review process be held 14 November 2018 at 10.00am

CC14

POWER OF SCRUTINY SUB-COMMITTEES TO MAKE ADDITIONAL RECOMMENDATIONS WHEN REVIEWING DECISIONS CALLED-IN

Further to Minute CC10 of the Commission's meeting held on 26 September 2018, when a briefing note in respect of the power of the scrutiny committees to make additional recommendations when reviewing called-in decisions was requested, the Commission noted that the briefing note had still to be finalised.

RESOLVED –

That consideration of the briefing note be deferred to the next meeting.

CC15

DATES FOR FUTURE MEETINGS

The Commission noted that future meetings were scheduled as follows:

- (a) 14 November 2018 at 10.00am
- (b) 5 December 2018 at 2.00 pm
- (c) 7/8 January 2019 at 2.00 pm, depending on the availability of Councillor Marland.

THE CHAIR CLOSED THE MEETING AT 3.25 PM