

Minutes of the meeting of the CONSTITUTION COMMISSION held on MONDAY
7 JANUARY 2019 at 11.00 am

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

Officers: P Cummins (Acting Service Director [Legal and Democratic Services]), K Hulatt (Acting Head of Legal), D Ngani-Oketch (Principal Solicitor - Contracts, Procurement and Governance), N Roy (Principal Solicitor), E Gineikiene (Senior Solicitor - Planning and Highways), C Firmin (Trainee Solicitor), P Ferris-Bedward (Trainee Solicitor), O Shiridzinodya (Trainee Solicitor) and S Heap (Committee Services and Scrutiny Manager)

CC20 MINUTES

RESOLVED -

The minutes of the meetings of the Commission held 14 November 2018 be agreed and signed by the Chair as a correct record.

CC21 REVIEW OF THE COUNCIL'S CONSTITUTION 2018/19

The Constitution Commission considered an update on the progress of work that was being carried out to review and update the Council's Constitution.

The Commission heard that:

- (a) The Policy Framework had been reduced to the legal minimum with the addition of the Council Plan;
- (b) The Officer employment rules had been updated and now complied with current legislation; and
- (c) Minor amendments were to be made to the Financial Regulations so that the regulations complied with current legislation.

In reviewing the draft revised Constitution the Commission received and considered representations from Councillors Bint, Ferrans and P Geary.

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 subject to the wording being confirmed the following change be made to the list of Policy Framework Documents:

Plans and Strategies which together comprise the Development Plan ~~and Development Plan Documents~~.

3. That the responsible officer for Appeals against Exclusion of a Pupil and School Admission Appeals in the Local Choice Functions be updated.
4. That the wording of paragraph 3(b)(ii) of the draft Officer Employment Procedure Rules be reviewed as to the definition of the word 'support'.
5. That the draft Officer Employment Procedure Rules be reviewed to ensure they address the appointment of Political Assistants and remove the possibility of the Deputy Monitoring Officer having to deal with complaints about the Monitoring Officer.
6. That the Officer Scheme of Delegation to be fully populated with titles.
7. That if not already existing, a clause be included in the appropriate Procedure Rules giving a committee chair the power to change the order of items on an agenda.
8. That Council Procedure Rule 9, as far as it relates to Petitions be amended to give a time scale of 5 working days for a Cabinet Member or Committee Chair to respond to a petition, with the petition and response to be reported for noting to the next meeting of the Cabinet or responsible committee.9.
9. That Council Procedure Rule 13 be reviewed in order to:
 - (a) provide a right of reply for the mover of the original motion before the vote on any amendments; and
 - (b) provide the opportunity for the owner of the substantive motion, after an amendment has been carried, to accept any further amendments.
10. That Annex A to the Access to Information Procedure Rules (Speaking Rights at Development Control Committee / Panel) be amended:
 - (a) to treat any request to speak by a councillor who is not a member of the Committee/Panel as an objection, so attracting a right of reply; and
 - (b) to change the word 'present' to 'summarise' in paragraph 2.
11. That the term 'material planning consideration' in the Officer Scheme of Delegation for Development Management Matters required for a planning application to be determined by the Development Control Committee / Panel be clarified.
12. That it be clarified what the trigger point is for a planning application to be determined by the Development Control

Committee / Panel because of the number of objections and the Officer Scheme of Delegation for Development Management Matters amended if necessary.

13. That it be clarified whether the Councillors' Development Control Planning Code of Good Practice only relates to members of the Development Control Committee / Panel.
14. That the instruction 'Do' in the Councillors' Development Control Planning Code of Good Practice be amended to 'Should'.
15. That the first clause of paragraph 6 of the Councillors' Development Control Planning Code of Good Practice be amended to read 'Should refer those who approach you for technical planning advice to officers'.
16. That paragraph 7 of the Budget and Policy Framework Rules be reviewed to see if it should more appropriately be included as part of the Overview and Scrutiny Procedure Rules and whether the term 'call-in' is appropriate in this context.
17. That in respect of the Protocol on Councillor-Officer Relations the legal minimum be included at the present time with a review as to the content being undertaken in due course.
18. That an all councillor briefing, to update councillors on the potential changes to the Constitution, to be held late January 2019.
19. That the draft revised Constitution be issued to all councillors in advance of the all councillor briefing, with the Constitution being broken down into sections to allow easy access to section most relevant to individual councillors.
20. That the draft revised Constitution be submitted to the meeting of the Council on 20 February 2019 and the Council be recommend to receive and adjourn consideration of the draft Revised Constitution until its meeting on 20 March 2019.
21. That the report to Council in February 2019 include a brief explanation of the impact of the changes in relation to each element of the Constitution, including who has undertaken the changes and who signed them off.
22. That the Constitution be restructured with a clear introduction which explains how the Council works, including an explanation of the Council's decision making arrangements, and which sign posts to supporting documents which are not legally required to be included as part of the Constitution.
23. That the Terms of Reference for the Constitution Commission be reviewed in due course, in order to give it an increased role in managing changes to the Constitution going forward.

CC22

**REFERRAL FROM AUDIT COMMITTEE - PERFORMANCE
REVIEWS OF COUNCIL SERVICES**

Further to Minute AC28(3) of the Audit Committee's meeting held on 20 November 2018, the Commission received a referral from the Audit Committee requesting clarity from the Commission as to which Committee held the responsibility to undertake the performance review function.

The Commission noted that performance review fell within the remit of the Scrutiny Management Committee and no further action was required by the Commission.

CC23

DATES FOR FUTURE MEETINGS

RESOLVED -

That the meeting of the Commission scheduled for 17 January 2018 be cancelled and a further meeting arranged for 25 February 2019 at 12 noon.

THE CHAIR CLOSED THE MEETING AT 11.22 AM