

Minutes of the meeting of the CONSTITUTION COMMISSION held on WEDNESDAY 26 SEPTEMBER 2018 at 2.00 pm

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

Officers: M Rosenthal (Interim Service Director [Legal and Democratic Services]), K Hulatt (Principal Solicitor - Litigation), D Ngani-Oketch (Principal Solicitor - Contracts, Procurement and Governance), P Ferris-Bedward (Trainee Solicitor), C Firmin (Trainee Solicitor), R Olanrewaju (Lawyer), O Shiridzinodya (Trainee Solicitor) and S Heap (Committee Services and Scrutiny Manager)

Apology: Councillor Marland

CC08 MINUTES

RESOLVED -

The minutes of the meetings of the Commission held 12 July 2018 be agreed and signed by the Chair as a correct record.

CC09 REVIEW OF THE COUNCIL CONSTITUTION 2018/19

Further to Minute CC03 of its meeting held on 12 July 2018, the Commission considered an update on the on the work that had been carried out to review and improve the Constitution following the external health check to ensure the Constitution was up to date and easy to use, specifically:

- (a) responses to the councillor survey ;
- (b) the suggested new format and Introduction for the Constitution;
- (c) an updated Responsibility for Functions section which included the Terms of Reference for the various Council bodies;
- (d) a revised list of Policy Framework and Local Choice Functions; and
- (e) a draft comprehensive Officer Scheme of Delegation.

The Commission also considered:

- (a) how councillors should be updated once the revised Constitution was adopted by the Council;
- (b) the timing of receipt of amendments, particularly with regard to the draft Council Budget where there is a tie;

- (c) the use of hyperlinks to streamline the Constitution and the availability of complete paper copies of the Constitution; and
- (d) how the Constitution was to be kept up to date going forward.

The Commission was of the view that, for the ease of updating, the section on the Committee Terms of Reference should not include the names of those councillors appointed to the various committees, but the section showing the functions of committees should incorporate the various officer delegations appropriate to the committee, rather than including them in a separate distinct section of the Constitution.

The Commission was also of the view that details of policies and strategies which sat below the Policy Framework Documents should be included in the revised Constitution and that the draft version of the Constitution presented to Council for adoption should show the current Policy Framework Documents it was intending to delete.

The Commission also suggested that the revised Constitution should provide a definition of a Cabinet Advisory Group, along with clarity as to who could be appointed to Cabinet appointed bodies.

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 outcome of the Member Survey be noted.
3. That a letter be drafted for the Chair to send to councillors who responded to the survey thanking them for their participation.
4. That the Councillor Training Group be requested to consider the timing and form of training / briefings to support the introduction of the updated Constitution.
5. That, once adopted by the Council, hard copy versions of the revised Constitution be available to those councillors who require one.
6. That, of the ease of updating, the section on 'Functions of Committees' (Chapter 2, Part 5) not contain the names of councillors forming the membership of the committees, the terms of reference be included by way of a link to the appropriate CMIS on the web-site and also includes reference to the number of co-optees on any committee.
7. That any of the current Policy Framework Documents proposed to be deleted be marked as such in the draft version of the Constitution to be submitted to Council so that the Council is aware.

8. That details of policies and strategies which sit below the Policy Framework Documents be included in the revised Constitution.
9. That a summary of any relevant officer delegations to be also included in Committee Terms of Reference.
10. That it be noted that the existing Executive Scheme of Delegation to the Leader and Cabinet will be incorporated into the new format unchanged.
11. That the intention to carry out a Review of the Council's Rules of Procedure during October and November 2018 be agreed.
12. That the Cabinet Procedure Rules include a definition for a Cabinet Advisory Group and the legislation regulating the membership of a Cabinet committee or sub-committee.
13. That the Commission be provided when the Protocols included in current the Constitution were last reviewed.
14. That consideration be given at a future meeting to the procedure for making changes to the Constitution going forward.
15. That the Groups receive a briefing at their November meetings on the proposed changes to the Constitution.
16. That the Council be recommend to adopt the revised Constitution at its meeting on 23 January 2019, to enable the revised constitution to be published and effective from 1 April 2019.
17. That once adopted the revised Constitution be reviewed on an annual basis.

CC10

**REFERRAL FROM THE SCRUTINY MANAGEMENT COMMITTEE
- POWER OF SCRUTINY SUB-COMMITTEES TO MAKE
ADDITIONAL RECOMMENDATIONS WHEN REVIEWING
DECISIONS CALLED-IN**

The Commission considered the following referral from the meeting of the Scrutiny Management Committee held on 5 September 2018:

"That the Constitution Commission be requested to consider the power of the scrutiny committees when reviewing decisions called in, particularly with regard to their power to make additional recommendations."

RESOLVED –

That a briefing note be provided to the next meeting of the Commission setting out the legal position, a theoretical example and potential options.

CC11

DATES FOR FUTURE MEETINGS

The Commission noted that future meetings were scheduled as follows:

- (a) 18 October 2018 at 2.00 pm
- (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