



Minutes of the meeting of the CONSTITUTION COMMISSION held on THURSDAY 12 JULY 2018 at 6.00 pm

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

Officers: M Rosenthal (Interim Service Director [Legal and Democratic Services]), P Cummins (Head of Legal Services) P White (Head of LGSS Procurement), D Ngani-Oketch (Principal Solicitor - Contracts, Procurement and Governance), P Ferris-Bedward (Trainee Solicitor), C Firmin (Trainee Solicitor) and S Heap (Committee Services and Scrutiny Manager)

Also Present: Councillor Middleton (Cabinet member for Resources and Innovation)

CC02 MINUTES

RESOLVED -

The minutes of the meetings of the Commission held 4 April and 16 May 2018 be agreed and signed by the Chair as correct records, subject to '2017' being amended to '2018' in the heading of the minutes of the meeting held on 4 April 2018'.

CC03 HEALTH CHECK ON THE CONSTITUTION

Further to Minute CC40 of its meeting held on 4 April 2018, the Commission received the outcomes of the Health Check on the Constitution carried out by Bevan Brittan, which included:

- (a) an advice note/report;
- (b) Constitution checklist based on the Direction; and
- (c) a proposed draft contents for a new constitution.

It was reported that Bevan Brittan had found the Council's Constitution to be legally compliant, to be relatively short and clear. However, there was room for the Constitution to be made clearer, more accessible and more business-like and to this end Bevan Brittan had supplied a list of key areas for action.

The Commission considered options for progressing the overall review of the Constitution which included:

- (a) allowing officer colleague to undertake the review and submit a revised Constitution to the Commission for consideration;

- (b) the Commission, or other appointed councillors, working alongside officer colleagues to undertake a systematic review, with the outcome being recommended to Council for adoption; or
- (c) employing an external firm of legal advisers to draft a revised Constitution for submission to the Panel.

The Commission noted that:

- (i) Option (c) above would be expensive and as there is no budget available to support the review would depend on savings being made elsewhere with Legal and Democratic Services budget. Equally the review would be conducted by person who have no working knowledge of Milton Keynes;
- (ii) Option (a) would overcome the problems with option (c), but would lack any significant input from councillors, so might not fully address the concerns of councillors resulting in wasted effort; and
- (iii) Option (b), was the option preferred option by officer colleagues as it appeared to overcome the likely problems with the other two options.

It was reported that it was envisaged that the review of the Constitution would be carried out in three phases as follows:

Phase 1 – Stakeholder consultations (August / September)

Phase 2 – Draft Revisions (October / November)

Phase 3 – Final Recommendations (December / January)

The draft revised Constitution would then be submitted to Council for adoption in time for implementation from the new Council year commencing in May 2019.

The Commission also noted that it was the intention to survey councillors for their views on the Constitution. It was suggested that the survey should cover officer making decision arrangements; the timing of when decisions were allowed to be made and also include questions about specific committees, which could be overlooked by councillors who were not a member of that particular committee.

The Commission also suggested that the individual political groups should be briefed on the process and timeline and a training session organised for all councillors to support the introduction of the new Constitution.

The Commission reviewed some of the terminology in the current Constitution.

RESOLVED –

1. That the Commission working alongside officer colleagues undertake a systematic review of the Constitution, with the outcome being recommended to Council for adoption.
2. That the review concentrate on the following areas:
 - (a) Form and Structure
 - (b) Accuracy, updating and future proofing
 - (c) Decision Making, specifically:
 - (i) councillor bodies;
 - (ii) officer delegations; and
 - (iii) Procedure Rules.
 - (d) Budget and Policy Framework and Financial Procedure Rules.
3. That the following phases for the review be agreed, along with the target timeline:
 - (a) Phase 1 – Stakeholder consultations (August / September)
 - (b) Phase 2 – Draft Revisions (October / November)
 - (c) Phase 3 – Final Recommendations (December)
4. That as part of the stakeholder consultation phase a survey of councillors be conducted to ascertain, amongst other things:
 - (a) views on officer decision making arrangements;
 - (b) the operation of individual committees;
 - (c) the timing of decision making meetings; and
 - (d) views on the conduct of the decision making meeting.
5. That a briefing paper be provided for the Political Groups on the timescale and conduct of the review.
6. That use of the following terminology be agreed for use in the revised Constitution as appropriate:
 - (a) Councillor not Member;
 - (b) Cabinet not Executive;
 - (c) Resident / member of the public / service user not citizen;
 - (d) Chief Executive not Head of Paid Service;
 - (e) Chair not Chairman; and

- (f) Chief finance Officer (Corporate Director Resources) not Section 151 Officer.

CC04

ADVERTISING THRESHOLD FOR MILTON KEYNES COUNCIL CONTRACT OPPORTUNITIES

The Commission considered possible changes the Contract Procedure Rules which would increase the threshold for mandatory advertising of contract opportunities from the current level of £5,000 to £25,000 as this would free resources in the Procurement Team so that they could be redirected onto more strategic input, as well as contributing to the delivery of the proposed budgetary savings in the Procurement Team.

The Commission noted that the Council had a legal duty to follow the Public Contract Regulations (PCR) 2015, which defined rules for public bodies to adhere to when spending public money, including the requirement to advertise contract opportunities over a minimum threshold of £25,000.

The Commission also noted that benchmarking with other authorities had revealed that most local authorities advertise at £25,000 and above, in line with the Government legislation, which meant that the £5,000 and above currently used by the Council was low for a local authority of its size and well below the threshold set by legislation.

The Commission was advised that the new limits, if adopted by the Council, would still require that three quotations were obtained for those contracts below £25,000 in value and that, if possible, at least two quotes would be from a local provider, so increasing the opportunities for local businesses.

It was suggested that if the council was to be recommended to adopt the changes Contract Procedure Rules, it should have the benefit of the view of the Chief Internal Auditor as to whether there were sufficient checks and balances in the new approach to ensure that it was not open to abuse.

The Commission was also advised that if the Council agreed the changes the Leader would need to be requested to change his Financial Scheme of Delegation.

RESOLVED –

1. That the Council be recommended to update the Contract Procedure Rules as follows:
 - (a) all proposed contracts over £25,000 to be advertised via the e tendering system unless a waiver is approved;
 - (b) at least two quotes to be from a local provider where possible for requirements between £5,000 and £100,000, and direct quotations be sought via e mail for requirements between £5,000 and £25,000 without the need for advertising; and

- (c) all quotation requests above £25,000 to be progressed via central procurement team
2. That the Leader of the Council be requested to update his Procurement and Financial Scheme of Delegation by increasing the Budget holder limit for inviting awarding contracts to £25,000.
3. That the Chief Internal Auditor be requested to provide a view as to whether there are sufficient checks and balances in the new approach to ensure that it is not open to abuse, with the opinion being reported alongside the recommendation to Council.

CC05

DEALING WITH AMENDMENTS TO RECOMMENDATIONS AND MOTIONS

Further to Minute CC39 of the meeting held on 4 April 2018, the Commission considered possible further changes to Council Procedure Rule 13, specifically the need for Clause 13.6(f) and how to deal with the timing of receipt of amendments, particularly where there was a tie.

RESOLVED -

1. That officer colleagues be requested to review the wording of Council Procedure Rule 13 in order that amendments to recommendations and motions are moved without a speech.
2. That officer colleagues bring forward a range of options for the Commission's consideration on the timing of receipt of amendments, particularly where there is a tie.
3. That revisions to Council Procedure Rule 13 and options on the timing of receipt of amendments be considered as part of the Health Check on the Constitution.

CC05

REGENERATIONMK COMMITTEE

The Commission considered making recommendations to Council on the future of the RegenerationMK Committee.

The Leader of the Council outlined the current arrangements put in place by the Cabinet to oversee the regeneration project, which included establishing a dedicated Cabinet Sub-Committee and suggested that the current powers of the RegenerationMK Committee could be better exercised elsewhere.

RESOLVED –

- 1 That Council be recommended to:
 - (a) disband the RegenerationMK Committee;
 - (b) transfer the function of appointing and removing Milton Keynes Council Directors of the Regeneration Company to the Senior Officers Appointments Panel;

- (c) agree that appraisals of the Milton Keynes Council Directors of the Regeneration Company be undertaken by the Chief Executive and senior officer colleagues with the outcomes being reported to the Communities and Housing Scrutiny Committee,
 - (d) add to the Terms of Reference of the Communities and Housing Scrutiny Committee responsibility for scrutinising regeneration, including the Business Plan, as required; and
 - (e) require the Communities and Housing Scrutiny Committee to include a separate report as part of the Annual Scrutiny Report to Council on regeneration and performance, including in that report details of the performance of the Milton Keynes Council Directors of the Regeneration Company.
2. That, subject to the Council agreeing the above recommendations, the Cabinet be requested to consider receiving a report quarterly on Your:MK's performance against the Business Plan.

CC06

DATES FOR FUTURE MEETINGS

The Commission considered dates for future meetings in light of the ongoing review of the Constitution and the wish to complete the work in advance of the new Council year.

RESOLVED –

That future meetings of the Commission be scheduled for:

- (a) 26 September 2018 at 2.00 pm
- (b) 18 October 2018 at 2.00 pm
- (c) 5 December 2018 at 2.00 pm

THE CHAIR CLOSED THE MEETING AT 7.30 PM