

| <b>REPORT TO</b> | <b>DATE OF MEETING</b> |
|------------------|------------------------|
| <b>CABINET</b>   | <b>20 MARCH 2013</b>   |

Report template revised June 2008



| <b>SUBJECT</b>                              | <b>PORTFOLIO</b> | <b>AUTHOR</b>       | <b>ITEM</b> |
|---|------------------|---------------------|-------------|
| <b>REVIEW OF THE COUNCIL'S CONSTITUTION</b> | <b>LEADER</b>    | <b>MAUREEN WOOD</b> |             |

## **SUMMARY AND LINK TO CORPORATE PRIORITIES**

The Constitution Task Group was established in 2010 to undertake a review of the Constitution by Governance Committee. Since 2010 the Constitution Task Group has conducted annual reviews of different sections of the Constitution and submitted reports to the Governance Committee and Cabinet prior to adoption of the proposed changes by Council at the start of each new municipal year. It is intended that this review will culminate in the adoption of the revised Constitution at the start of the 2013/14 municipal year.

This current review has focused on four topics covering various sections of the Constitution: Working Groups and Panels, the Executive arrangements, Scrutiny Procedure Rules and the Contract Procedure Rules. The proposed revisions are appended to this report as follows:

Working Groups and Panels Appendix 1  
 Executive Arrangements Appendix 2  
 Scrutiny Procedure Rules for call-in Appendix 3  
 Contract Procedure Rules Appendix 4

Ensuring that the Constitution is up to date and applied effectively is a key element of the corporate governance of the Council and links to the corporate priority of being an efficient, effective and exceptional Council.

## **RECOMMENDATIONS**

1. That Cabinet recommend the Council adopt the proposed changes to the Constitution with effect from the first Council meeting of the new municipal year in 2013.
2. The Monitoring Officer, in consultation with the chairman of the Governance Committee, be authorised to update the Constitution to reflect the outcomes from Recommendation 1 above.

## **MAIN CHANGES AND REASONING**

### **3.1 Part 3F – Working Groups and Panels**

The Council and its committees may appoint working groups to consider specific aspects or tasks. These usually make appropriate recommendations to the parent body. Because of the varied nature of these groups it was felt that specific rules or procedures should not restrict them, but that each parent body is expected to set the Terms of Reference and any

protocols required for any working group that it appoints. Some guidance has been provided for due consideration by the parent body. Refer Appendix 1.

### **3.2 Part 4C Access to Information Procedure Rules**

The legislation governing Cabinet meetings and transparency of information changed in 2012. The regulations (*Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012*) govern public access to meetings and information relating only to Cabinet meetings.

They revoke the 2000, 2002 and 2006 Access to Information regulations, although many of those provisions form part of the new regulations.

New regulations have been introduced which severely restrict the ability of Cabinet meetings to be held in private, but as our meetings are held in public it has no real effect. However if a decision was to be taken in private 28 days' notice has to be given or special procedures have to be put in place.

Changes are proposed for the Constitution and are covered in Appendix 2.

### **2.3 Part 4F Scrutiny Procedure Rules**

The Scrutiny Committee used the call-in procedure for the first time last year. This was the first time the procedure had been used in 12 years. It was felt this was an opportune time to review the process and update the constitution based on the feedback and learning from using this procedure in practice. The following changes are proposed and shown at Appendix 3.

- a) That a process for capturing the agreement/signatures of a call-in be developed
- b) The timescale for holding a Scrutiny Committee meeting following a call-in be extended from the current 5 working days to 10 working days
- c) The wording of the procedure be updated to make it more simple and easy to follow

### **2.4 Part 4H Contract Procedure Rules**

The Council's Contracts Procedure Rules were last reviewed in March 2011 in conjunction with a similar review at Chorley Borough Council. The two Councils' sets of rules were harmonised on to a standard template, taking account of best practice at the time and achieving commonality where possible and appropriate to maximise benefits under the Shared Procurement Service.

The service has moved on and it is now considered appropriate to carry out a further review for the following reasons:

- a) To clarify and review the rules for grants and income (concessions) following the learning and feedback from the call-in procedure referred to above
- b) To update the rules following full implementation of the Chest e-tendering system
- c) To include measures to stimulate and encourage local procurement where possible and within legal constraints
- d) To review and strengthen where appropriate, issues identified by the Audit Commission in their published report on the Wirral Council highways and engineering services contract award and management

The proposed changes are covered in Appendix 4.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

|                               |  |
|-------------------------------|--|
| <b>FINANCIAL</b>              | There are no financial implications at this stage.   |
| <b>LEGAL</b>                  | All relevant legislation has been assessed.  |
| <b>RISK</b>                   | Ensuring that the Constitution is up to date and applied effectively is a key element of the corporate governance of the Council. Accordingly, any failure to keep the Constitution relevant and fit for purpose could present a risk. |
| <b>THE IMPACT ON EQUALITY</b> | It is considered that the proposed changes to the Constitution do not impact adversely on equality issues.   |

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|--------------------------|--|
| <b>OTHER (see below)</b> |  |
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|   |  |   |   |
|---|--|---|---|
| <i>Asset Management</i>                           | <i>Corporate Plans and Policies</i>            | <i>Crime and Disorder</i>                 | <i>Efficiency Savings/Value for Money</i> |
| <i>Equality, Diversity and Community Cohesion</i> | <i>Freedom of Information/ Data Protection</i> | <i>Health and Safety</i>                  | <i>Health Inequalities</i>                |
| <i>Human Rights Act 1998</i>                      | <i>Implementing Electronic Government</i>      | <i>Staffing, Training and Development</i> | <i>Sustainability</i>                     |

## BACKGROUND DOCUMENTS

Risk Assessment