



Full Council	Tuesday, 02 October 2018	Matter for Information
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Report Title:

**Review of the Council's Constitution
Update (October 2018)**

Report Author(s):

Steve Tucker (Democratic & Electoral Services Manager)

Purpose of Report:	To update the Council on the progress achieved by the Constitutional Working Group in updating and revising the Constitution.
Report Summary:	<p>The Constitutional Working Group continues to make steady progress in updating and revising the Council's Constitution.</p> <p>It is anticipated that ongoing revisions to the Constitution should be completed early in 2019 in readiness for adoption at the start of the 2019/2020 municipal year.</p>
Recommendation(s):	That the progress made by the Constitutional Working Group in updating and revising the Council's Constitution be noted by the Council.
Responsible Strategic Director, Head of Service and Officer Contact(s):	<p>Anne Court (Chief Executive) (0116) 257 2602 anne.court1@oadby-wigston.gov.uk</p> <p>Dave Gill (Head of Law & Governance / Monitoring Officer) (0116) 257 2626 david.gill@oadby-wigston.gov.uk</p> <p>Steve Tucker (Democratic & Electoral Services Manager) (0116) 257 2605 steven.tucker@oadby-wigston.gov.uk</p> <p>Samuel Ball (Senior Democratic Services Officer / Legal Officer) (0116) 257 2643 samuel.ball@oadby-wigston.gov.uk</p>
Corporate Priorities:	An Inclusive and Engaged Borough (CP1) Effective Service Provision (CP2)
Vision and Values:	"A Strong Borough Together" (Vision)
Report Implications:-	
Legal:	There are no implications directly arising from this report.
Financial:	There are no implications directly arising from this report.
Corporate Risk Management:	Political Dynamics (CR3) Regulatory Governance (CR6) Organisational/Transformational Change (CR8)

Equalities and Equalities Assessment (EA):	There are no implications arising from the report. EA not applicable.
Human Rights:	There are no implications arising from the report.
Health and Safety:	There are no implications arising from the report.
Statutory Officers' Comments:-	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Deputy Monitoring Officer:	As the author, the report is satisfactory.
Consultees:	Constitutional Working Group
Background Papers:	Report entitled 'Review and Amendment of the Council's Constitution' to Full Council, 24 April 2018 Report entitled 'Update on the Progress of the Constitutional Working Group' to Change Management Committee, 24 July 2018
Appendices:	None.

1. Background

- 1.1 At the Full Council meeting held on 24 April 2018, a report was presented to Members which proposed amendments to the Articles in Part 2 of the Constitution and the Responsibility for Functions in Part 3 of the Constitution.
- 1.2 The Council referred the item back to the Constitutional Working Group (CWG) to consider a number of additional revisions, including a request to produce clearer guidelines around the distinction between operational and policy matters, as well as producing standard terms of reference for Sub-Committees. It was requested that a report be brought to either the July or October Council meeting to update Members on the progress of this further work.
- 1.3 Since the meeting held on 24 April 2018, the CWG has held two further meetings, the first on Wednesday 30 May 2018 and the second on Tuesday 4 September 2018. An update was also provided to the Change Management Committee meeting held on 24 July 2018.
- 1.4 Alongside the review of the Council's Constitution, a considerable number of policies require updating and amending to reflect the current structure of the Council (in particular around job titles and roles) and a review of all policies that can be identified is currently underway.

2. Progress Update

- 2.1 At the CWG meeting held on 30 May 2018, a number of minor amendments as suggested by Members at April's Council meeting were incorporated into the draft Articles and Scheme of Delegation.
- 2.2 Members of the CWG were also presented with draft standard Terms of Reference for Sub-Committees. There was a divergence of opinion between Officers and Members present at that meeting as to the intention of Council and whether the request for standard terms of reference acknowledged that Sub-Committees established under the Local Government Act 1972 may have full decision-making powers. Those Members present at the meeting felt that Council had meant to limit the delegated powers of Sub-Committees to the making of

recommendations only.

- 2.3 At the Change Management Committee held on 24 July 2018, the two issues mentioned at paragraph 2.1 above were given further consideration. With regard to standard terms of reference for Sub-Committees, it was clarified that aside from standing Sub-Committees created under statute, Members could not currently envisage any situation whereby a parent Committee within the Authority would wish to delegate decision-making powers to a Sub-Committee. The expectation from Members was that any creation of a sub-group comprised of Members would solely be on the basis of a "task-and-finish" remit. Therefore, it was requested that separate standard terms of reference also be included in the Constitution for Working Groups, Panels etc. established by Committees, clearly stating that their role is to advise or make recommendations to the relevant parent Committee.
- 2.4 With regard to the distinction between policy and operational matters, it was generally accepted that the governance arrangements adopted by the Council at its meeting on 29 April 2014 continued to provide an appropriate framework, however some Members felt that there should be greater opportunity for Member involvement in shaping operational strategy, in particular when it came to major decisions which would affect all residents across the Borough. This was on the basis that Members had to take accountability for policy decisions and therefore should have the ability to contribute strategic advice towards the delivery stage of such policies, including the ability to raise concerns if they believe that the policy is not being operationally delivered as specified within the policy decision taken.
- 2.5 At the CWG meeting held on Tuesday 4 September 2018, Members were presented with copies of the draft revised Consolidated Rules of Procedure in Part 4 of the Constitution and the Codes and Protocols in Part 5 of the Constitution. Whilst largely consistent with the existing Constitution, a number of potential revisions were highlighted within the documents, upon which Members were invited to offer their views.
- 2.6 Those Members present were generally of the view that adopting an overly-prescriptive Members' Substitute Scheme would not be desirable as the current arrangements afford greater flexibility to Members, thereby ensuring that meetings remain quorate; however, it was accepted that political groups should not be able to substitute their entire complement of sitting Members at any given Committee meeting. Members also remained in favour of restricting Members from substituting on those regulatory Committees and Sub-Committees performing a quasi-judicial function until they had received the requisite training.
- 2.7 Those Members present were also of the view that adopting a Petitions Scheme - explicitly setting out different types of petitions, the number of signatories required for each and the various ways and means by which petitions would be dealt with and responded to - was not necessary as the current arrangements could be finessed to provide a general framework without the need for a fully-fledged Scheme. A lengthy discussion was also held regarding whether or not it was appropriate to permit Petitions at Development Control Committee and Licensing Sub-Committee meetings, given the prejudicial imbalance this created between speaking time for objectors and the applicant in respect of a planning or licensing application. Members were keen to ensure that the rights of residents to submit petitions were protected, but agreed that these should not be used as a means of enabling an individual to speak twice (i.e. as an objector and as the lead petitioner) to an application.
- 2.8 A discussion was also held around the requirement within the Constitution for a motion to be moved at Development Control Committee before an item is debated as is currently required at Council and other Committee meetings. It was noted that the current Chair of the Committee supports this practice, given that it enables an element of control over proceedings to be retained. Some Members were concerned however that the public perceive the moving of a motion before a debate has taken place to indicate that Members have already determined their position prior to listening to the arguments for and against.

Officers agreed that the constitutional arrangements at other local authorities in respect of this would be looked at with a view to finding an acceptable compromise, but emphasised that any solution would need to provide for an effective method of being able to track with certainty motions made from initial proposal to final decision, including any amendments, without which decisions taken may be either ambiguous and/or subject to challenge.

- 2.9 Given the considerable size/detail of the documents presented to the meeting, Members were asked to take away the draft papers to enable further time for them to be digested and considered, and to report their views and/or proposed revisions to the next meeting.

3. Next Steps

- 3.1 Officers anticipate being in a position to bring a fully revised and updated Constitution back to Full Council early in 2019 for Members to approve, subject to any amendments.
- 3.2 It is proposed that once approved, the new Constitution should come into operation at the beginning of the 2019/20 municipal year, which will represent an appropriate juncture to adopt the revised arrangements once a new administration has been formed after the 2019 Borough elections.