

CITY OF PLYMOUTH

Subject: Revised Constitution
Committee: Council
Date: 20 June 2011
CMT Member: Monitoring Officer
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Ref: Review of the Constitution
Key Decision: No
Part: 1

Executive Summary:

The Council is requested to adopt a new constitution following a thorough review which included simplifying the documents within the constitution, standardising and streamlining processes and ensuring compliance with current legislative requirements. In addition Council is recommended to designate officers as the Council's scrutiny officer and proper officer under the Registration Act 1953. Council is also requested to note the scheme of delegation for executive functions for 2011/12.

Corporate Plan 2011 – 2014:

There are no direct implications in relation to the corporate plan. However it is vital to ensure that effective governance arrangements are in place to deliver the corporate plan

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

There are no direct implications in relation to the Medium Term Financial Plan and Resources.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

There are no direct implications.

Recommendations & Reasons for recommended action:

It is recommended that the Council:

- (1) Adopts the Constitution and its associated documents as attached.
- (2) Designates the following:
 - (a) The Head of Policy, Performance and Partnerships as the Council's Scrutiny Officer
 - (b) The Assistant Director for Democracy and Governance as the Council's proper officer for the registration service
- (3) Consider the current prescription regarding the chairs and vice-chairs of scrutiny panels, whether these should be amended, and resolve accordingly.
- (4) Notes the Leader's scheme of delegation for executive functions 2011/12.

The reasons for recommendation (1) are that the present Constitution needs updating following legislative changes. There is also an opportunity to review and overhaul the document as a whole.

The reason for recommendation (2) is that the Council is required to designate officers to these roles.

The reason for (3) is to enable Council to review the prescription regarding the chairs and vice-chairs of the scrutiny panels.

The reason for recommendation (4) is to bring to the attention of Council how the leader wishes to delegate executive functions.

Alternative options considered and reasons for recommended action:

The present model of the Constitution does not reflect the new 'strong leader' model adopted by the Council. The current constitution could simply be amended as it stands, but this would not address the need for greater clarity in the layout and text.

Background papers:

None.

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate):

Fin		Leg		HR		Corp Prop		IT		Strat Proc	
Originating SMT Member TH											

1.0 Introduction

A local authority that is operating executive arrangements must prepare and keep up to date a written constitution that contains such information as the Secretary of State may direct, which includes a copy of the authority's standing orders for the time being, a copy of the authority's code of conduct and such other information as the authority considers appropriate.

The purpose of the constitution is to set out everything anyone who has dealings with the local authority would need to know about how it conducts its business, who takes which decisions and how to work with it.

To comply with this legislative requirement, attached is a revised Council Constitution, the objective of the review of the constitution is to provide:

1. A constitution written in an easy to understand format
2. Concise and clear information on the council and executive responsibilities
3. Reduced duplication
4. A common approach to finance, contract and property rules etc
5. Consolidates changes in legislation

2.0 Main Changes

The main changes to the present constitution are set out as bullet points below:

- Clear and concise information about the delegation of executive responsibility and an explanation of which decisions are the responsibility of cabinet and which are the responsibility of cabinet members. It defines the roles of cabinet (Section 4) and cabinet members (Section 6), with Council responsibilities set out in Section 5.
- Officer executive delegation is now set out under broad definitions; powers not delegated elsewhere are delegated to officers by default. (Section 4.4)
- The forward plan is no longer reported to Council; this is because the forward plan is a document from the Leader (and an executive function) and is already published elsewhere.
- The rules on motions on notice and the procedure to be followed have been reviewed to make them easier to understand.

- Changes arising from the new executive arrangements and the adoption of the strong leader model have been incorporated.
- The Council Tax setting meeting is now primarily limited to recommendations from cabinet relating to the budget and corporate plan.
- Clear and specific grounds have been included for the 'call-in' to the planning committee of those planning decisions which are otherwise delegated to officers (Section 5.3.2)
- Where the press and public are not excluded any member of the public and any city councillor can speak on any agenda item for up to 5 minutes if the chair agrees.
- The Chief Executive can call a Council meeting and present a report, in line with the similar powers of the Monitoring Officer and Chief Finance Officer.
- Clerical amendments can more readily be made, to make the Constitution follow or clarify the law or to comply with full Council decisions to amend the Constitution. (Section 2.5.)
- Section 4 (who carries out executive responsibilities) and Section 6 (roles of Cabinet members), can be readily amended to reflect the wishes of the Leader.
- The times of Special Meetings (but not Ordinary or Annual meetings) are now determined by the Monitoring Officer.
- The power to reject questions from members of the public or Councillors is now limited to specific grounds. (Sections 11.11.9 and 11.11.13). The same limitation applies to the acceptance of Motions on Notice (Section 11.15.5).
- There are some additional changes in some Proper Officer provisions e.g. Scrutiny Officer and Registration Service Proper Officer.
- In addition to the general standing orders, the Constitution includes:
 - a. Finance Rules (formerly the financial regulations)
 - b. The Member's ICT code
 - c. Employment rules
 - d. Legal rules
 - e. Contract rules
 - f. Property disposal rules
 - g. Member code of conduct
 - h. Appendices
 - i. Councillor Call for Action guidance
 - ii. Petitions guidance (section 28)
 - iii. Policy Framework (Section 29)
 - iv. Member Allowances
 - v. Senior management structure
 - vi. Glossary

3.0 Finance Rules

The revised Finance Rules (Section 24) were considered by Audit Committee in January. At the meeting of the 21 January 2011 it was agreed that:

- (1) The proposal to incorporate the Financial Rules within the overall Constitution be noted;
- (2) The proposed changes to the virement delegation limits be recommended to Council;
- (3) The new Finance Rules be recommended for discussion at Council; the same to be attached to the constitution as an appendix;
- (4) The Capital Governance Document outlining the detailed arrangements for managing and monitoring the capital programme be approved and added to the Finance Rules Index, subject to new schemes costing up to £100,000 being approved by the relevant Cabinet Member;
- (5) No project manager should be appointed to any project (revenue or capital) prior to having undertaken relevant project management training.

Items (1) to (3) above are met through this report coming to Council. The delegation tables are slightly different from those which initially went to the Audit Committee; they have now been simplified and been made consistent and easier to understand. This follows the request from the Audit Committee that the rules are simplified. With respect to item (4) the attached Finance Rules have the cabinet member and appropriate Director as consultees. With respect to item (5), the Council ensures that those appointments to project management roles have the necessary skills and capabilities and this would be tested as part of any recruitment process.

4.0 Consultation

This revised Constitution has been the subject of consultation with Councillors and Officers over the last 6 months. These consultation processes have included:

- Presentations to the political groups and individual members from those groups
- Workshops and drop-in sessions with Members and Senior Officers
- Report to the Audit Committee on the Finance Rules
- Presentations to CMT in full
- Discussions with individual officers with specific interests in parts of the Constitution

During those processes amendments have been made to hone the revised Constitution to reflect the particular needs of Plymouth City Council. The consultation with Councillors has been particularly robust and challenging and therefore enormously helpful. The consultation with members raised some specific issues, which are set out below.

Referral of planning applications to the Planning Committee

It was a generally held view, that the right to refer matters to planning committee was an extremely important part of the democratic process. The proposed changes are therefore limited to the need for Councillors to clarify the reasons for referral, under one of the following three broad criteria:

- There are finely balanced policy or precedent issues, or
- There are probity issues or public interest reasons for the matter to be decided by the Planning Committee, or
- The matter is an unusual response to a particular set of issues that warrants debate by the planning Committee

In the initial draft of the Constitution it had been envisaged that in addition, the Chairman and an officer would also need to agree the inclusion of the matter on the agenda. However, it was felt by some members that this additional requirement was unreasonable and unnecessary. Consequently, that additional requirement has not been included in the new constitution.

Consideration of planning applications from council employees

An initial proposal was that only employees of the planning service or those holding politically restricted posts should have their applications automatically referred to the planning committee.

There was a strongly held concern amongst some members that officers were unnecessarily being treated differently to members (where all member applications go to Committee). It was felt that this sends out a mixed message and that as a matter of probity, all officer applications should also go to committee too. Whilst it was accepted that there is a 'cost' involved in taking all applications to committee, it was felt that this is outweighed by the 'benefits' to the council in terms of equality and probity.

Consequently, the proposed constitution remains with the present position where applications by Councillors and Council employees will be referred to the Planning Committee.

Consideration of the forward plan by Council

The Forward Plan is a document published by the Leader every month. It is an 'executive' rather than a Council document and it is therefore not appropriate to bring the Forward Plan to Council.

The Forward Plan will continue to be published electronically and members are still able to ask questions about matters included in the plan:

- Informally by raising the matter with the Leader or a cabinet member, or by
- Raising formal questions, or by
- Raising matters at scrutiny panels or by
- Asking questions at Council during the general question time.

Prescription of scrutiny panel chairs and vice-chairs

Generally, the current constitution does not prescribe to which political group a chair or vice-chair of a committee must belong. With respect to scrutiny panels however, in four of the panels it is stated that the panel 'will be chaired by a member of the majority political group with the vice-chair from the opposition political group'. In respect of one panel however, it says it 'will be chaired by a member of the opposition political group with the vice-chair from the majority political group'.

Council has an opportunity to consider whether they wish to continue with these arrangements, or put in place some alternative. The alternative options could include:

- (a) Remove any prescription relating to the political group of a chair or vice-chair for all the panels
- (b) Have the same prescription on chair and vice-chair for all five panels
- (c) Review and determine the prescription for each individual panel
- (d) Leave the prescription as at present

There will undoubtedly be other options or variations on the above.

Any changes will have no impact on the current chairs and vice-chairs, but would impact on future appointments.

5.0 Proper officer changes

Scrutiny officer

The Local Government Act 2000 requires the Council to designate one of our officers to discharge the following functions:

- (a) To promote the role of the authority's overview and scrutiny committee or committees;
- (b) To provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;
- (c) To provide support and guidance to—
 - (i) Members of the authority,
 - (ii) Members of the executive of the authority, and
 - (iii) Officers of the authority,

in relation to the functions of the authority's overview and scrutiny committee or committees.

It is recommended that the Head of Policy, Performance and Partnerships be designated as the council's scrutiny officer.

Registration service proper officer

The Registration Service Act 1953 requires the Council to designate a “proper officer” to be responsible for the administration of services in relation to the registration of births, marriages and deaths.

In general terms the council has the responsibility for administering the funding of the service, together with the provision of “support” staff, accommodation and any other requirements for the efficient delivery of the service. The relationship between the local authority and the service is “managed” by the proper officer.

Currently, the Director for Corporate Support is the ‘proper officer’ however it makes sense to align the function with the line management of the service. Consequently it is recommended that the Assistant Director for Democracy and Governance be designated as the Council’s proper officer.