

Report



Democratic Services Committee

Part 1

Date: 17 September 2015

Item No: 3

Subject Review of the Council's Constitution

Purpose To agree the principles for a review of the Constitution

Author Head of Democratic Services

Ward All Wards

Summary At its last meeting, this Committee was informed that the Corporate Assessment contains a proposed action that states:

Reviewing and updating the Council's constitution ensuring that roles, responsibilities and accountabilities are clear, and that all members understand and apply their respective roles in relation to each other without compromising independence;

Empowering members to be more proactive and accountable for their roles and responsibilities;

Strengthening decision-making arrangements to ensure transparency and appropriate safeguards are in place;

The Committee agreed that we should take the opportunity to review the Constitution and to address these issues as part of that review.

This report sets out a proposed new structure for the Constitution that will provide a basis for the look and feel of the document

If the Committee agrees this to be the way forward, work will begin on drafting the new document and the Committee will be provided with updates at each meeting until the task is completed. The Committee will also be asked to consider matters of principle as they arise

The Corporate Assessment advises that we should be reviewing and updating the Council's constitution ensuring that roles, responsibilities and accountabilities are clear, and that all members understand and apply their respective roles in relation to each other without compromising independence.

To meet this aim, it is suggested that this Committee should now revisit the issue of role descriptions for elected members in their various roles. If this is agreed, it will form part of the agenda for the next meeting of this committee

Proposal

- I. To agree the proposed structure of the Constitution Review
- II. To agree that the issue of role descriptions should form an early part of that review
- III. When the review is complete, to make recommendations to the Council

Action by Head of Democratic Services

Timetable Ongoing

This report was prepared after consultation with:

- Chief Executive
- Monitoring Officer
- Section 151 Officer
- Head of People & Business Change

Background

As mentioned in the summary, the Corporate Assessment suggests a review of the constitution to help resolve some issues identified by the Wales Audit Office.

This report suggests that the Democratic Services Committee undertakes a review.

The overriding aim of the review is to make the document a worthwhile and understandable document but at the same time we should aim at addressing the issues raised by the Audit Office.

Part of the review should address the points raised about ensuring that roles, responsibilities and accountabilities are clear, and that all members understand and apply their respective roles in relation to each other without compromising independence.

We should also discuss the view that members should be empowered to be more proactive and accountable for their roles and responsibilities.

The Corporate Assessment also stated that we should consider strengthening decision-making arrangements to ensure transparency and appropriate safeguards are in place.

The City Council's existing Constitution is, in the main, based on the original model constitution prepared by the Assembly Government in 2001. Members will be aware that the Constitution has been revised and updated in a piecemeal manner as and when necessary. The existing Constitution meets all statutory requirements and there is no doubt that it remains fully fit for purpose.

Members agreed that a new structure to the Constitution should be considered and that the Committee should be involved in discussion around the principles of the new Constitution and should consider any major changes for recommendation to Council. The Committee did not wish to be involved in line-by-line examination of the various sections of the Constitution where the fundamental principles were not changed in any way.

With this in mind, this report sets out a proposed new structure for the Constitution that will provide a basis for the look and feel of the document.

If the Committee agrees this to be the way forward, work will begin on drafting the new document and the Committee will be provided with updates at each meeting until the task is completed. The Committee will also be asked to consider matters of principle as they arise.

In the summary this report mentions that we should be reviewing and updating the Council's Constitution ensuring that roles, responsibilities and accountabilities are clear, and that all members understand and apply their respective roles in relation to each other without compromising independence.

To meet this aim, it is suggested that this Committee should now revisit the issue of role descriptions for elected members in their various roles. If this is agreed, it will form part of the agenda for the next meeting of this committee.

Financial Summary

There will be no additional costs to the authority in carrying out the review.

Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Carrying out the review prevents the risk of Officer time being taken up on the review with the opportunity cost of other tasks being carried out	M	H	The work will be carried out alongside other tasks by the Head of Democratic Services, the Democratic Administration and Scrutiny Teams, this Committee and the Scrutiny Improvement group	Head of Democratic Services
If we do not carry out a review it is likely that similar points are made when the Corporate Assessment is reviewed next year	H	L	This report suggests we address the points raised in the Corporate assessments incrementally and as part of an overall review	Head of Democratic Services
If we merely address the points raised by the Corporate Assessment an opportunity for a wider review will be lost	M	M	This report suggests we focus on making the document more understandable and relevant	

Links to Council Policies and Priorities

The proposed review will help the Council meet the Council's wish to provide the best possible affordable services to members and the public

Options Available

- Take no action
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- To redraft the constitution based on the suggested structure

Preferred Option and Why

Review the Constitution based on the suggested structure to make it more relevant and understandable and at the same time look at the issues raised by the Wales Audit Office. This option is preferred as the views of the Corporate Assessment are important but the Council should also review how we meet the needs of Councillors and the public with all of our documentation.

Comments of Chief Financial Officer

There are no financial implications arising from this report.

Comments of Monitoring Officer

The Council has a statutory duty under Section 37 of the Local Government Act 2000 to prepare and keep up to date its written constitution, setting out its rules of procedure and corporate governance arrangements. The current constitution is based on the modular framework developed back in 2001 and, although it has been regularly updated on a piecemeal basis to cover changes in legislation and organisational structure, it is in need of substantive review. This has been identified as an action point following the latest WAO review and the corporate assessment. Other recommendations for improvement also include clarification of roles and responsibilities and this can also be picked up within the relevant parts of the constitution. A new model constitution has been drafted by the Lawyers in Local Government Group, which can be tailored to the Council's own requirements and this is a more user-friendly document than the original. Therefore, it is recommended that this model constitution is used as the framework for this review. Although the drafting of the new document will be undertaken by officers, the process should be overseen by Democratic Services Committee and specific parts of the constitution should be reviewed as part of the forward work programme, to identify any substantive changes required. The final document will need to be recommended to full council for approval in due course.

Staffing Implications: Comments of Head of People and Business Change

There are no direct staffing implications arising from this report

Local issues

There are no local issues as this is a matter relating to the democratic process and is for the Council as a whole to consider.

Consultation

Statutory Officers have been consulted.

Dated: September 2015

Proposed Structure of the Constitution:

**THE CONSTITUTION
Of
Newport City Council**

Contents

Part 1: Introduction

- Why the Council has a constitution
- Changes to the Constitution
- Suspension of the Constitution
- Clarification or Interpretation of the Constitution

Part 2: Citizens and their rights

- Elections and Voting
- Changes to the Council's Democratic arrangements
- Rights to information
- Access to accounts
- Speaking in Committee
- Complaints by citizens about Elected Members or Officers
- Your Responsibilities as a citizen

Part 3: Members of the Council

- How is the Council made up?
- Who can stand for election
- The roles and responsibilities of Councillors
- Conduct
- Rights and Duties of Councillors
- Declarations of Interest
- Annual Reports
- Salaries and allowances- The Scheme of Members'; Remuneration

Part 4: The Full Council

- What is the full Council meeting?
- The Functions of the Council
- Framework Documents
- The Budget
- Types of Council Meetings
- Standing Orders of the Council
- Champions

Part 5: The Executive (Cabinet)

- Who can serve on the Cabinet
- The composition of the Cabinet
- The Leader of the Council/Cabinet
- Other cabinet members and portfolios
- Cabinet Sub Committees
- Joint Committees
- Roles and Responsibilities of Cabinet Members
- Decision Making Rules and processes
- The scheme of delegation to Cabinet Members
- Terms of Reference of the Cabinet
- Meetings of the Cabinet
- Rules of Proceedings
- Access to information

Part 6: Overview & Scrutiny

- Who can serve on the Scrutiny Committees
- The composition of the Scrutiny Committees
- The Chairs of the Scrutiny Committees

- Other Scrutiny Committee members
- Roles and Responsibilities of Scrutiny Committee Chairs and Members
- Meetings of the Scrutiny Committee
- Rules of Proceedings
- Access to information

Part 7: Planning and Licensing Committees (Regulatory Committees)

- The Regulatory Functions
- Who can sit on Planning & Licensing Committees
- Terms of Reference of Planning Committee
- Scheme of Delegation for Officers and Planning Matters
- Roles and Responsibilities of Planning Members
- Planning Codes and speaking rights
- Site Visits
- Terms of Reference of Licensing Committee
- Terms of Reference and procedures for Licensing Sub Committees and Licensing Panels
- Scheme of Delegation for Officers and Licensing matters
- Roles and Responsibilities of Licensing Members
- Licensing Codes
- Access to Information in Regulatory Committees

Part 8: Standards Committee

- Who can sit on the Standards Committee
- Terms of Reference of Standards Committee
- Roles and Responsibilities of Standards Members
- Roles and Responsibilities of the Monitoring Officer in relation to Standards
- The Ombudsman

- Access to information in Standards Committee
- Procedures for dealing with complaints about Councillors

Part 9: Audit Committee

- Who can sit on the Audit Committee
- Terms of Reference of Audit Committee
- Roles and Responsibilities of Audit Members
- Access to information in Audit Committee

Part 10: Democratic Services Committee

- Who can sit on the Democratic Services Committee
- Terms of Reference of Democratic Services Committee
- Roles and Responsibilities of Democratic Services Committee Members
- Roles and Responsibilities of the Head of Democratic Services in relation to Democratic Services Committee
- The Ombudsman
- Access to information in Democratic Services Committee

Part 11: Staff

- The Officer Structure
- Statutory Roles: Head of Paid Service; Monitoring Officer: Section 151 Officer; Head of Democratic Services
- Recruitment, appointment, dismissal and disciplinary processes
- Recruitment of Head of Paid Service and other Chief Officers
- Employee Code of Conduct
- Scheme of Delegation to Officers

Appendix 1: Standing Orders

- Standing Orders for the meeting of the full Council
- Standing Orders for the meeting of all other committees
- Contract Standing Orders
- Financial Regulations

Appendix 2: Code of Conduct for Councillors

Appendix 3: Allocation of Functions

- Miscellaneous Functions
- Local Choice Functions