

Meeting: COUNCIL

Agenda Item:

16

Portfolio Area: Modernising Local Government

Date: 23 FEBRUARY 2011

CHANGES TO THE CONSTITUTION

NON-KEY DECISION

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1. PURPOSE

To recommend changes to the Council's Constitution.

2. RECOMMENDATION

2.1 That Council approves the following amendments to the Constitution –

- which are required to operate the Leader and Cabinet(England) model set out in Appendix 1 – with effect from 25 May 2011
- in order to simplify the arrangements for executing documents under the Council's seal set out in Appendix 2 – with from 24 February 2011
- in order to remove the requirement in Financial Regulations for the Executive to approve the writing off of certain debts by approving the changes set out in Appendix 3 – with from 24 February 2011
- In order to reverse temporary changes to the scheme of delegation for officers relating to Town and country planning – with from 24 February 2011.

2.2 That Council adopts an Officers' Code of Conduct in the form set out in Appendix 5 for inclusion in Section 5 of the Council's Constitution – with from 24 February 2011.

3. BACKGROUND

3.1 Governance Arrangements

3.1.1 At its meeting on 7 December 2010 the Council resolved to adopt the strong leader and cabinet form of executive governance and instructed officers to

bring back to Council the constitutional amendments necessary to operate these new arrangements.

- 3.1.2 Details of these requirements were set out in the report of the 7th December and the necessary substantive changes to the Constitution set out in Appendix 1 broadly concern the Articles of the Constitution, Sections relating to Responsibility for Functions and the Rules of Procedure in so far as they concern the appointment of the Leader and Deputy Leader, the appointment of the Executive and the Delegation of Executive Functions. There are, in addition numerous consequential references the 'Leader' and the 'Executive' throughout the Constitution which are not reproduced in the Appendix, although full copies of the Constitution containing all revisions are available for inspection. All these changes are in effect a statutory requirement under the Local Government Act 2000 as amended.

3.2 The Council's Seal

- 3.2.1 The Council is still statutorily required to execute certain documents under the Council's Seal. This somewhat archaic procedure is little more than a formality though currently the affixing of the Seal under the Council's Constitution requires two witnesses a process which is both time consuming and has the potential to cause difficulties where documents need to be sealed at very short notice. Secondary legislation under the Local Government Act 2000 now allows the Seal to be witnessed by one signatory and this procedure is now used by many local authorities. It is therefore proposed that this simplified bureaucratic process is adopted by the Council and the necessary constitutional changes are set out in Appendix 2.

3.3 Debt Write offs

- 3.3.1 Financial Regulations currently require the writing off debts exceeding £20,000 to be approved by the Executive. While this appears, on its face, to be an entirely appropriate requirement in practice debts of this size are only written off where there is no possibility of recovery, almost always where an insolvent limited company has been liquidated owing business rates. In these circumstances there is no practical course of action open to the Executive except to write off such debts and the production of a report therefore serves no useful purpose. The Strategic Director (Resources) will continue to seek the Executive's approval for debt write offs where he considers this necessary. It is therefore proposed that the changes to Financial Regulations are set out in Appendix 3 should be adopted.

3.4 Officer Code of Conduct

- 3.4.1 The Council has a code of conduct for officers which have not been reviewed for many years.
- 3.4.2 There is no statutory requirement for the Council to have a formal code of conduct for officers. The Local Government Act 2000, which introduced the ethical standards regime for members, also has provision for a statutory

officer code of conduct in a form to be prescribed by Government. Although there have been drafts and consultations issued by the DCLG for the introduction of an officer code this was apparently abandoned last year and it appears unlikely that the Coalition Government will wish to resurrect it.

- 3.4.3 Members will be aware that the Localism Bill, provided it is enacted in its current form, will abolish the statutory code of conduct for members and will note that the proposed officer code has a number of similarities with the existing Member code
- 3.4.4 Although there is no other legal requirement for an officer code and most aspects of officer behaviour at work are covered by their employment contracts and the general law the Chief Executive considers, on balance, that a code setting out the general standards of conduct expected of officers should be adopted including a restatement of the law and guidance on officers accepting gifts and hospitality.
- 3.4.5 The annexed draft broadly covers these two elements together with a statement of the statutory requirements (with criminal sanctions for default) for officers to register certain interests. In this section there is no reference to the Prevention of Corruption Acts as these are to be repealed shortly by the Bribery Act 2010.

3.5 Delegations to officers relating to planning

- 3.5.1 At its meeting on 22nd April 2009 ('the 2009 Meeting') the Council appointed Nick Parry as Chief Executive and Peter Bandy as Strategic Director in Nick Parry's previous role broadly covering environmental functions including both Estates and Planning. In order to avoid any conflicts of interest (or the appearance of any conflicts) it was resolved that the Chief Executive rather than Peter Bandy should have direct responsibility for the commercial aspects of the council's estates operations as Peter Bandy effectively retained his previous role as head of planning. As a new Head of Planning and Development Control has now been appointed this temporary change in the scheme of delegation is no longer required and it is proposed that this change, as set out in paragraph 4.5 of the Report on Senior Officer Appointments being Agenda Item 4 of the 2009 Meeting is now reversed.

5. IMPLICATIONS

- 5.1 None

BACKGROUND DOCUMENTS

- Previous Reports to Council
- Local Government & Public Involvement in Health Act 2007

APPENDICES

- Appendix 1 – Substantive changes to the Constitution to facilitate the strong Leader/Cabinet model
- Appendix 2 – Revised Article 12 of the Constitution – re. Common Seal of the Council
- Appendix 3 – Revised Section 20 of Financial Regulations – re. Write off of debts
- Appendix 4 – Draft Officer Code of Conduct