

DECISION-MAKER:	FULL COUNCIL
SUBJECT:	ANNUAL CHANGES TO THE CONSTITUTION
DATE OF DECISION:	15 TH MAY 2013
REPORT OF:	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
STATEMENT OF CONFIDENTIALITY	
None	

BRIEF SUMMARY

This report sets out the annual review of the Constitution. This was considered and discussed by Governance Committee on 30th April 2013 in its governance role. The recommendations of the Governance Committee are included below.

RECOMMENDATIONS:

- (i) to agree the changes to the Constitution as set out in this report;
- (ii) to authorise the Head of Legal, HR and Democratic Services to finalise the arrangements as approved by Full Council and make any further consequential or minor changes arising from the decision(s) of Full Council;
- (iii) to approve the City Council's Constitution, as amended, including the Officer Scheme of Delegation for the municipal year 2013/14;
- (iv) That the Head of Communities, Change and Partnership is designated the Council's Scrutiny Officer; and
- (v) That the Head of Legal, HR and Democratic Services develop protocols between the OSMC and the Police and Crime Panel, the Health Overview and Scrutiny Panel, the Health and Wellbeing Board and the successor to Southampton Link.

REASONS FOR REPORT RECOMMENDATIONS

1. It is appropriate for the Council to keep its Constitution under regular review and to amend it, both to reflect experience and changing circumstances.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. The Council resolved in May 2002 to review its Constitution on an annual basis. Therefore, it is appropriate that this report is considered by Members. There are a range of recommendations set out within the report. Members have a range of options about various changes not least of which is to reject some or all of them.

DETAIL (Including consultation carried out)

3. This report was considered by Governance Committee on 30th April 2013. The committee's comments and amendments are embodied within this report and the appendices.

Background Information

4. The Constitution of the Council describes the way in which the Council conducts its business. It contains not only the Articles of the Constitution, but also the various rules and procedures for decision-making, access to information, Overview and Scrutiny, the Codes of Conduct, the Officer /

Member Protocol, as well as other specific rules relating to contracts and finance.

5. The Constitution forms the cornerstone of effective corporate governance. Whilst Southampton City Council's constitutional arrangements continue to be recognised as being of a high standard, Full Council agreed in May 2002 that it would on an annual basis robustly review the Constitution and its operation. The purpose of this report is to bring forward proposed changes to the Constitution, these having been considered by Governance Committee (in its governance role) with a view to build upon the constitutional arrangements for the Council.

Petition Scheme

6. Local authorities were required to adopt a Petition Scheme, laying out in detail the way in which they would respond to petitions that achieved a certain number of signatures. The recent statutory regime has been repealed, but the Council previously resolved that it would retain in place the principles of the Petition Scheme. As a result, petitions containing 1,500 signatures or more will require a debate at a council meeting; petitions with fewer than 1,500 signatures will be presented and received without discussion a council meeting and included on the agenda for the next available meeting of the Cabinet; petitions containing 750 signatures but fewer than 1,500 and requesting an officer to give evidence will first of all be considered by Overview & Scrutiny Management Committee; petitions with more than 50 signatures will be treated as a petition that requires a response by an officer and that the council will take a flexible approach on a case by case basis in responding to petitions with fewer than 50 signatories.
7. The Constitution currently states that a petition that requires a debate (over 1,500 signatures) at Full Council will be managed at the discretion of the Mayor and in accordance with the Council Procedure Rules, after which a vote will be put.
8. This is the regime that we have in place and reflects the fact that we are no longer legally obliged to have a Petition Scheme but we have in essence retained much of the thrust of the original approach, giving people the right to have petitions debated at Full Council. Indeed the NHS petition presented at the recent Full Council meeting qualified (subject to a final ratification by Democratic Services) for a Full Council debate.
9. The question that has been asked was whether or not the rules were flexible enough to deal with petitions that might be raised at the budget meeting? Members will recall Council had a petition raised and chose to include it within the timeframe, ie 30 minutes allotted to each of the Groups to respond on budget issues. It was agreed that this resulted in the petition not receiving the attention that it duly deserved.
10. If the Council is, therefore, to continue to allow petitions presented at the Budget meeting to have a debate, the methodology of dealing with that is currently wholly at the discretion of the Mayor. It is advised that the Mayor allows such a debate but that it might take a more truncated form than perhaps would otherwise be the case, reflecting the nature of the budget meeting. Also if we had numerous (linked) budget related petitions, it could result in a combined truncated debate. This might involve a limited amount of time per Group or a limited number of speakers per Group on the petition debate.

11. This is provided for within the Constitution. The Mayor has the discretion to manage the debate process. Therefore the rules do not need to be amended. However, it would be possible for Council to add some additional wording, should members feel it helpful to express the sentiment at least that for the purposes of any debates on petitions at the budget meeting, given the special nature of that business, the Mayor will take an appropriate approach, determined following consultation with the Group Leaders. This again, does not commit the Council to anything in particular, but reflects and acknowledges that the budget meeting might require some special attention and consideration.
12. In addition, it is suggested that the scheme be changed to allow further flexibility in the light of the experience that has been gained in dealing with the petitions received. The changes are highlighted in the revised scheme, and include allowing for a petition containing more than 1500 signatures to be considered by the appropriate decision-maker rather than having to be debated at Full Council. Thus where time does not allow the petition to be submitted to the scheduled Council meeting it will avoid the need for a Special Council meeting to be arranged. The revised scheme is attached at Appendix 1.

Council and Executive Procedure Rules -

13. The Leader has requested that if following either annual or a by election the political control of the authority changes as a direct result that the Constitution is revised so that no significant decisions can be taken by Council, the Executive, or by Executive Members through delegated powers during the period between annual elections and the AGM. The concern is that the Council's arrangements need to ensure that there is no "democratic deficit" which to the public would appear to show political bias and limited legitimacy in the circumstances when one political party (whichever party that is) may have lost control of the Council. The revisions are attached on Appendix 2.
14. Such changes will not affect the Council's ability to react to any time limited or emergency matters, in the rare event that they should they arise as there are existing adequate powers under the Officer Scheme of Delegation to permit the Chief Executive, Director of Corporate Services or Head of Legal, HR and Democratic Services to act.
15. The desire to do so has come as a result of the circumstances relating to the Rom TV outsourcing review which was due to be considered by Overview and Scrutiny Management Committee on 11th April 2013 but was deferred until after the AGM. The Governance Committee has considered the specific issue and recommended revisions as detailed in Appendix 3.

Officer Delegations

16. The scheme of delegation has been updated to reflect the substantial operational changes that have occurred as a result of the ongoing Directorate restructures and reduction in Director posts. The full, revised scheme can be found in the Members' Rooms and has not been printed due to its size. Several delegations have been removed: firstly those regarding ad hoc grant allocations as such awards should be considered as part of the overall grant award process and secondly in relation to education related functions which are no longer the Council's responsibility (all within 4.4). New delegations have not been added unless specifically referred to in this report

Health and Social Care Act 2012 and the Health & Well-Being Board

17. All matters relating to the recent changes in relation to health matters previously agreed by Council have been included in various parts of the Constitution. However, there is a requirement to finalise the scrutiny element which was considered at the last Council meeting. An interim position was put in place with the intention that the long term solution be considered at the annual meeting.
18. Part 1A – 9FB of the Local Government Act 2000 states that County and Unitary authorities must designate a scrutiny officer, to promote the role of Overview and Scrutiny, support Overview and Scrutiny Committee's, and to provide advice to officers and members about Overview and Scrutiny Committee's. Subsection 4 states that this person may not be the Head of Paid Service, Monitoring Officer or S151 Officer.
19. The 2013 Regulations amend the current health scrutiny legislation to confer the power to undertake health scrutiny on the Council rather than directly to a Health Scrutiny Committee. As a result, in order for health scrutiny to continue to be carried out by the existing Health Overview and Scrutiny Panel (HOSP), the Council is required to delegate responsibility to the Panel.
20. the power to refer to the Secretary of State for Health can also be delegated to the HOSP or remains a function of the Council. Subject to the expected further guidance it is recommended that the Council delegates power to the HOSP to refer to the Secretary of State for Health. This is included in updated Part 3 HOSP terms of reference at Appendix 4.
21. The legislation as drafted and existing guidance is not clear as to whether it is necessary to have both accountability and relationships between the HOSP, Health and Wellbeing Boards and Local Healthwatch. The discharge of functions by Health and Wellbeing Boards fall within the remit of Scrutiny but the core functions are not subject to call in as they are, predominantly, not Executive functions. There will need to be relationships between Health and Wellbeing Boards, Scrutiny Committee, particularly the Health Overview Scrutiny Panel and local Link which will be Local Healthwatch when established. To ensure clarity and mutual understanding of roles and responsibilities it is recommended that delegation is given to the Head of Legal, HR and Democratic Services to develop a protocol between the three elements.
22. Accordingly it is recommended that the powers to undertake Health Scrutiny conferred on the Council as set out in Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) 2013 Regulations be delegated to the Council's Health Overview and Scrutiny Panel, including, subject to national guidance, referral to the Secretary of State for Health.

Police and Justice Act 2006 – Protocols

23. The Police and Justice Act 2006 requires local authorities to designate a Scrutiny Committee to act as a 'Crime and Disorder Committee', with powers to review or scrutinise decisions made (or action taken) by local Community Safety Partnerships (CSPs) and the 'responsible authorities' that comprise it, but only with regards to activities which relate to the Partnership itself. This role is performed by the OSMC.

24. The Police Reform and Social Responsibility Act 2011 introduced the role of the 'Police and Crime Commissioner' (PCC), an elected representative for each Policing area, whose role would be to ensure efficient and effective policing, replacing Police Authorities. The Act also required each Police area outside of London to have a Police and Crime Panel established.
25. Although the Act did not change the legal remit of local authority Crime and Disorder Committees, they will not have the power to directly scrutinise the Police and Crime Commissioner because he/ she will not be a 'responsible authority' on the Community Safety Partnership therefore the Hampshire Police and Crime Panel will carry out part of the role previously exercised by the OSMC.
26. There are clear benefits of the OSMC working in partnership with the Police and Crime Panel. OSMC can play a critical role in helping the Hampshire Police and Crime Panel:
 - To recognise the needs and concerns of local communities in relation to community safety and crime.
 - To better understand the link between the strategic direction set by the Police and Crime Commissioner and its impact on individual wards and neighbourhoods.
 - To focus on issues which are common to all of Hampshire and the Isle of Wight.
 - To maximise its resources by contributing to scrutiny work initiated by the Hampshire Police and Crime Panel.
27. Equally, the Hampshire Police and Crime Panel can assist the OSMC by:
28.
 - Holding the Commissioner to account if:
 - he/she has a detrimental impact on the safety or confidence of communities in Hampshire and the Isle of Wight.
 - public concerns are raised due to their chosen approach
 - they act in a way which would have previously prompted the Committee to 'call in the responsible authority.'
 - Informing and supporting the Commissioner in such a way as to ensure his/ her approach and plans reflect the needs and interests of the diverse communities across Hampshire and the Isle of Wight.
29. On the basis of the rationale outlined above, it is recommended that delegation is given to the Head of Legal, HR and Democratic Services to develop a protocol that sets in place a framework for partnership working between the OSMC and the Hampshire Police and Crime Panel.

Chipperfield Bequest

30. Currently the Head of Leisure has delegated authority "In association with the Chipperfield Advisory Committee to select and acquire works of art for the collection under the Chipperfield Bequest, up to the value of £25,000, subject to the necessary finance being available". In light of recent changes to the administrative arrangements it is considered that this could be increased to £125,000. The proposal has the support of the Cabinet Member.

Deputations

31. The Constitution states that where the issue is the subject of a previous deputations or a resolution of the council within the previous six months, then the deputation is not to be entertained. This raised a particular issue in relation to the Helius deputation recently, and because the Council had previously resolved on the issue, the deputation was not permissible under our rules.
32. There are a number of exceptions, but it is considered that given the view that the Council would want to encourage engagement and participation, that excluding requests for deputations where the issue has been resolved on by the council within the previous six months is perhaps harsh. Clearly if an issue has been the subject of a deputation within the previous six months, then they should not be tabled on a repeated basis, as the matter will have been considered and dealt with. However, by amending this particular exclusion so that Council only excludes issues which are the subject of a previous deputation (ie Council ceases to exclude issues which are the subject of a previous resolution of the Council within the previous six months) it is considered this will address the issue and address it appropriately and proportionately.

RESOURCE IMPLICATIONS

Capital/Revenue

33. None

Property/Other

34. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

35. The Executive Arrangements and Constitution are required under the Local Government Act 2000 (as amended). Other matters referred to in the report are addressed in the Local Government Act 1972 (as amended) as well as the Local Government and Public Involvement in Health Act 2007 and Localism Act 2011.

Other Legal Implications:

36. None.

POLICY FRAMEWORK IMPLICATIONS

37. None.

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KEY DECISION? Yes/No n/a

WARDS/COMMUNITIES AFFECTED:	None
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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Revised Petition Scheme
2.	Extract showing revisions to Executive Procedure Rules
3.	Extract showing revisions to Council Procedure Rules
4.	Extract showing revisions to Responsibilities for Functions

Documents In Members' Rooms

Revised Scheme of Delegation

Integrated Impact Assessment

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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Other Background Documents

Integrated Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None.	
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