

SOUTH STAFFORDSHIRE COUNCIL

COUNCIL – 23 MAY 2023

ANNUAL REVIEW OF THE CONSTITUTION

REPORT OF THE MONITORING OFFICER

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

The report sets out a number of changes to the Constitution recommended to be adopted at Annual Council on 23 May 2023. The changes proposed are set out in detail in paragraph 3.

2. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	The constitution is a legal requirement and provides the legal framework for ensuring that the Council can deliver the Council Plan.
	Has an Equality Impact Assessment (EqIA) been completed?	
	Yes	Available to Members as a meeting document; no negative impacts were identified.
SCRUTINY POWERS APPLICABLE	No – decision of Council	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	Target delivery date is adoption of constitution on 23 May 2023	
FINANCIAL IMPACT	No	There are no direct financial implications arising from this report.
LEGAL ISSUES	Yes	It is a legal requirement of the Council that it has a constitution. This report ensures that it meets this requirement. Legally the constitution must be followed or the Council will potentially act unlawfully and is open to legal challenge.
OTHER IMPACTS, RISKS & OPPORTUNITIES Including climate impacts and health impacts if applicable	No	No other specific risks and implications.
IMPACT ON SPECIFIC WARDS	No	Applies to all of the Council

PART B – ADDITIONAL INFORMATION

3. INFORMATION

- 3.1 As set out above it is a legal requirement that the Council has a constitution. The constitution is a critical document. It sets out how the Council operates and the rules that must be met in carrying on its business (often known as “standing orders”).

The Constitution is reviewed and readopted on an annual basis.

However, it is important to note that the constitution can be reviewed or amended at any point in the year if the Council so decides.

- 3.2 A summary of the changes proposed for the Municipal Year 2023/24 is set out below:

Proposed changes

- Reduction in the size of some committees following the Boundary Review reduction in the number of elected members.
- Changes to the locality basis of membership of Planning Committee
- Changes to delegated powers in respect of planning matters
- Changes to the Challenge Panels structure
- Administrative changes to the Constitution to reflect: (i) clarification of Standards and Resources Committee Terms of Reference; (ii) clarification of Personal Development Review and Appointments Panel Terms of Reference; (iii) the recent Individual member decisions on leases; (iv) consequential amendments following Boundary Review changes; (v) minor administrative changes.
- Minor changes to the Procurement Rules for low level contracts.
- Proposed adoption of Islamophobia Definition.

3.3 **Reduction in Committee membership**

In light of the Boundary Review changes, which has resulted in a reduction in the number of members from 49 to 42, the overall seats available across council committees has been reviewed and it is proposed there is a slight reduction in the seats across committees to reflect the reduction in councillor numbers. Firstly, it is proposed that Standards and Resources Committee is reduced from 14 to 12 members with each of the two sub-committees also being reduced by one member.

Secondly, the membership of Wellbeing Select Committee is also reduced; from 15 district members plus the county lead to 12 district members plus the county lead.

Finally, it is proposed that one seat is removed from the Discretionary Housing Payment Scheme, from 9 to 8 members.

If approved, this would see an overall reduction in seats available across the council committees from 140 to 132. It is proposed that this is a proportionate approach to ensure the effective delivery of local government without an unreasonable call on member time for attendance at meetings.

3.4 Planning Committee Membership

Currently, membership of Planning Committee is split across the 5 Localities as follows:

- 2 members from Locality 1
- 3 members from Locality 2
- 5 members from Locality 3
- 4 members from Locality 4
- 4 members from Locality 5

The above split was agreed by Council in May 2022 pending the May 2023 implementation of the Boundary Review changes, with the intention to achieve the Locality split as follows from May 2023 subject to political balance requirements being achieved:

- 3 members from Locality 1
- 3 members from Locality 2
- 4 members from Locality 3
- 4 members from Locality 4
- 4 members from Locality 5

However, imposing such a rigid split across the Localities, whilst also achieving political balance, can be problematic and lead to unintended consequences. It may be that certain members from certain political groups could be prevented from sitting on the committee if they are not in the 'right' locality. It is therefore proposed to adopt a more flexible approach to membership of Planning Committee, with no set Locality allocation but rather seeking to achieve a spread of members throughout the district whilst also achieving political balance. It is thought that this approach will give group leaders greater flexibility when considering nominations for this committee and will allow members who are keen to sit on this committee the ability to put themselves forward regardless of locality. The final membership would of course be subject to agreement of full Council.

Part 3 – Responsibility for Functions

3.5 A number of minor changes to the Scheme of Delegation to Officers (in Part 3 of the Constitution) in respect of planning functions have been proposed and these are set out in full in Appendix 1 (these are shown in track-changes mode for ease of identification).

3.6 In summary:

- * Clarification that existing delegation on issuing of notices includes Planning Contravention Notices
- * Clarification around enforcement powers in respect of advertising notices etc
- * Clarification of wording in respect of West Midland Interchange applications
- * Confirmation of delegation of powers to agree Statements of Common Ground (agreed by way of a Member Decision in February 2023)
- * Delegation to deal with matters associated with the Government's First Homes Programme
- * Delegation to work with groups on Neighbourhood Plans
- * Clarification on call-in process for planning applications to Planning Committee and for site visits
- * Specifying the ability to make minor modifications to wording of planning conditions following committee decision (subject to previously agreed consultation with member where appropriate).

3.7 Challenge Panels

The Council has operated a scrutiny process of 3 Challenge Panels for a number of years. These Panels provide an opportunity for every member to scrutinise particular matters on an annual basis, seeking to ensure engagement across the whole membership.

These Challenge Panels have proved successful, but it is considered that now is an opportune time to refresh the approach. The three panels – Your Council, Your Place and Your Community – have to a degree been bound by their titles and this could be seen as an unnecessary restriction. It is proposed that we move away from the 3 panels with set membership. Currently, the panel membership is set at the May AGM but the topics are not selected until July. This can mean that a member may, for example, be allocated to the Your Council panel but, once topics have been selected, have a greater affinity or interest in the Your Place panel topic. Moving away from a set membership would allow a degree of self-selection onto the panels, so that if a member had a particular interest or knowledge in a certain area, they could elect to go on that panel. It is envisaged this will further increase engagement. It is also proposed that whilst the basis will be 3 panels, this will not be definitive and, if appropriate, a greater or indeed smaller number of panels will operate. These could be Locality based if the subject matter lends itself to a Locality approach; or they may be topic based with a selection of members across the Localities. The principle will be to have a flexible approach that best serves members' requirements. These panels

would be renamed Member Working Groups. The proposed changes to the Constitution (Part 2 Article 9) to reflect this can be seen in Appendix 2.

3.8 Administrative changes within the Constitution

(i) Standards and Resources Committee – Terms of Reference

Currently, the Standards and Resources Committee has oversight of employment matters generally, with day-to-day matters delegated to the Chief Executive as Head of Paid Service. It is proposed that it is made clear in the Constitution (Part 3) that this Committee has responsibility for new or significant amendments to HR policies. This revision can be seen at Appendix 3.

(ii) Personal Development Review and Appointments Panel – Terms of Reference

It is proposed that the terms of reference for the Personal Development Review and Appointments Panel, in Part 3, be clarified to make it clear as to the requirement to have 2 Independent Persons sitting on the Panel when making decisions in respect of the payment of Special Severance Payments as detailed in the Council's Pay Policy Statement. The terms will also be amended to mirror the agreed Pay Policy Statement around pay decisions for JNC posts resting with this Panel (excepting CLT posts and temporary payments).

(iii) Cabinet Decisions

On 14 February 2023 Cabinet made two decisions making minor changes to the delegations around lease approvals. These previously agreed decisions will be reflected in the new Constitution in Part 3. Any changes to Cabinet Member areas of responsibility post-election will also be incorporated. Minor changes to reflect or clarify areas of current Cabinet Member responsibility have been made.

(iv) Boundary Review Changes

The Constitution will also be updated in respect of minor consequential changes following the Boundary Review of South Staffordshire Council e.g. Article 2 of Part 2 which lists the ward and number of members elected. The proposed revised Constitution (with changes shown) is available as a meeting document for viewing by members.

(v) Administrative Changes

The standard report format, contained within the Constitution Part 4, has been updated to enhance the provisions in place to ensure that members have clear visibility of key considerations when making decisions. The revised format can be seen at Appendix 4. Minor changes to Assistant Director areas of responsibility have been made; no new areas of delegated responsibility have

been added.

3.9 Changes to Procurement Rules in Part 4

It is proposed to increase the lower threshold in the procurement rules from £500 to £1000. The threshold was previously set at £1000 but was reduced a few years ago to be in line with the transparency data requirements (whereby all spend over £500 has to be published). However, this has caused practical difficulties in seeking to obtain 3 quotes for very low-level contracts and therefore it is proposed that the previous level of £1000 for the seeking of 3 quotes be restored. This will not affect the information required to be published under the transparency regulations. It is also proposed that there is an increase in the threshold for intermediate-value contracts from £25,000 to £30,000 to reflect the impact the recent increases in inflation have had on costs.

Due to the digitalisation of the internal contract waiver process (no change to authority in this area) minor changes to the wording is necessary and this will be reflected in Part 4.

The rules currently provide an exemption for the obtaining of legal advice due to the specialist nature involved when it can be necessary to obtain advice either from a leading specialist or at very short notice. It is proposed that this exemption is extended for the obtaining of specialist HR consultancy and training services; again this can require a particular specialist to be instructed or advice may be required at very short notice, making the obtaining of 3 quotes problematic. This would not affect the requirement to obtain quotes/tenders for high value contracts.

3.10 Adoption of Islamophobia Definition

The Constitution currently includes the IHRA definition of antisemitism. Alongside this, members may wish to consider the widely adopted definition of Islamophobia as approved by the All-Party Parliamentary Group:

Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness.

The full definition and background can be seen at Appendix 5.

If supported in principle, this would be considered by the Equality Steering Group and incorporated into our equality plans and documents as appropriate. Any future proposed definitions would be considered by this Group to ensure a consistent approach is taken. Such definitions would be removed from the Constitution and incorporated into plans and documents to ensure they are embedded across the Council.

4. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

A detailed Equalities Impact Assessment was produced in March 2015 in conjunction with the approval of the revised constitution. This has been updated as necessary, but no impacts are envisaged. The Assessment is available to Members as a meeting document.

5. PREVIOUS MINUTES

The Constitution was last revised and adopted in May 2022.

6. BACKGROUND PAPERS

Constitution of South Staffordshire Council

7. RECOMMENDATION

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