



Report Reference Number: C/20/15

To: Council
Date: 13 April 2021
Ward(s) Affected: All
Author: Alison Hartley, Solicitor to the Council & Monitoring Officer

Title: Constitution Update and Proposed Changes

Summary:

The purpose of this report is to set out any administrative changes to the Constitution that have been made under delegation by the Monitoring Officer since the last approval by Council and to propose two changes to be considered by Council.

Recommendations:

To note that there have been no administrative changes made by the Monitoring Officer since the last amendments were reported to Council, and to approve the following:

- (i) **That the Constitution be amended by the Solicitor to the Council to remove all references to Community Engagement Forums (CEFs) as recommended by the Executive; and**
- (ii) **That the Constitution be amended by the Solicitor to the Council so that the “Licensing and Appeals Sub-Committee” is re-named “Licensing Sub-Committee”, all the Licensing Committee Members are appointed to the Licensing Sub-Committee, and that selection of 3 members to Licensing Sub-Committee when required to determine applications be undertaken by the Chairman of the Licensing Committee in consultation with the Solicitor to the Council; and**
- (iii) **That the above changes take place with immediate effect.**

Reasons for recommendation

To ensure the constitution is up to date and fit for purpose. Any changes to the Constitution unless considered as administrative changes need to be approved by Council.

1. Introduction and background

- 1.1 The constitution is a key document in the Corporate Governance Framework of the Council. The two overarching principles of good governance as set out in the CIPFA code are:
- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law
 - Ensuring openness and comprehensive stakeholder engagement.
- 1.2 A review is undertaken of the Constitution on a regular basis to consider whether there are any changes required as a result of legislative change, any recommendations from internal or external auditors or in the light of experience and best practice.
- 1.3 Under Article 15 of the Constitution responsibility for the Constitution lies with the Monitoring Officer. Since the Monitoring Officer last reported changes to Council there has been no requirement for further administrative changes. It should be noted however that the Remote Meetings Rules will fall away in May 2021, as the Coronavirus Act 2020 only enabled Remote Meetings as a temporary measure.
- 1.4 On 11th March 2021 the Executive considered the future of Community Engagement Forums and has proposed that they are replaced by an alternative scheme to allocate funding. The Report to Executive is attached at Appendix B, together with the relevant draft Minute 78. Council is asked to consider amending the Constitution to remove any references to Community Engagement Forums. If this change is approved by Council, the Executive has tasked the Director of Economic Regeneration and Place in consultation with the Lead Executive Member for Communities and Economic Development with preparing a detailed interim Member Funding Framework. (It should be noted that the alternative Framework will only require Council approval if the proposed detailed Scheme would fall outside of the budget framework).
- 1.5 The Chair of Licensing Committee has requested changes to the selection of Licensing & Appeals Sub-Committee members. The Constitution presently states that the Democratic Services Officer selects the Members and that the Sub-Committee includes Chair and Vice Chair of the Licensing Committee. It is proposed that this is changed so that all Licensing Committee Members are members of the Licensing Sub-Committee and selection of 3 from the membership where a Sub-Committee is required will be determined by the Chairman of the Licensing Committee in consultation with the Solicitor to the Council.

2. The Report

- 2.1 The Monitoring Officer has had regard to any changes to legislation, and best practice, and has made no further administration changes under delegation

since the last time the Constitution was reported to Council. She can confirm that it is fit for purpose in its current form.

- 2.3 The Executive is requesting removal of the Community Engagement Forums from the Council Constitution. The Constitution procedures currently require that all local area engagement and funding must go through this process. As detailed above, the current response and recovery from the pandemic requires a more agile approach. In removing the procedures, it should be recognised that the work of Elected Members from parish, district and county councils alongside dedicated community representatives across the 5 CEFs has contributed much to supporting their local communities over the last 10 years and the Executive hope to develop such collaborative practices again for the future.
- 2.4 As an alternative and interim measure, subject to Council approval to removing the Community Engagement Forums from the Constitution, the Executive has resolved to develop an interim Member Funding Framework under current officer delegation processes which the Executive consider places Elected Members at the heart of local community support and should enable them to understand issues and act quickly for residents in their local area.
- 2.5 The functions of the Council relating to alcohol licensing are governed by the Licensing Act 2003, and the application processes and hearings are subject to different rules and regulations to the more usual Local Government Act 1972 council meetings. To administer the quasi judicial function under the Licensing Act 2003, a panel of 3 members is required to hear applications in accord with this legislation. Strict time limits and procedural rules apply to hearings, and it is important to be able to appoint an experienced and trained panel, sometimes at short notice. There is limited flexibility in respect of dates due to the legislative time limits. Having reviewed the Constitution in relation to this point, and consulted with the Chief Executive and Chairman of the Licensing Committee, the Monitoring Officer has recommended that changes are made so that all members of the Licensing Committee are members of the Licensing Sub-Committee and selection of 3 from those members to a panel where a hearing is required will be made by the Chair of Licensing Committee in consultation with the Solicitor to the Council. This will ensure that a sufficient number of experienced and trained licensing members are available to be selected to hearing panels when required.

3. Alternative Options Considered

None – these changes to the Constitution are required to ensure it is up to date.

4. Implications

4.1 Legal Implications

A local authority is under a duty to prepare and keep up to date its constitution under the Local Government Act 2000 as amended.

4.2 Financial Implications

None

4.3 Policy and Risk Implications

If the Constitution is not up to date there is a risk that decisions will not be made on a lawful basis.

4.4 Corporate Plan Implications

The proposed changes enable delivery of the Corporate Plan and other Council policies in a timely manner striking a suitable balance between delivery and transparency.

4.5 Resource Implications

None

4.6 Other Implications

None

4.7 Equalities Impact Assessment

Not required.

5. Conclusion

The amendments proposed will ensure delivery of priorities in an open and transparent manner and will enable delivery of Corporate objectives.

6. Background Documents

None

7. Appendices

Appendix A – Executive Report dated 11 March 2021 and draft Minute 78

Contact Officer:

Alison Hartley
Solicitor to the Council and
Monitoring Officer
ahartley@selby.gov.uk