

Cabinet Member for Policing and Equalities
Council

9 March 2020
17 March 2020

Name of Cabinet Member:
Cabinet Member for Policing and Equalities - Councillor AS Khan

Director Approving Submission of the report:
Chief Executive

Ward(s) affected:
None

Title: Proposed Changes to the Constitution

Is this a key decision? No

Executive Summary:

The Constitutional Advisory Panel at its meeting on 19 November 2019 considered a number of proposed changes to the Constitution. These were:

- (a) Revisions to the Conference and Travel Protocol: Part 4E of the Constitution
- (b) Revisions to the Rules for Contract: Part 3G
- (c) Revisions to the Financial Procedure Rules: Part 3F
- (d) Audit and Procurement Committee Terms of Reference: Part 2I
- (e) Protocol for Conferring the Title of Honorary Alderman
- (f) Code of Conduct for Elected and Co-opted Members: Part 4A
- (g) Licensing and Regulatory Committee Terms of Reference: Parts 2F and 2M

These changes are briefly set out in more detail in Appendices 1 to 7 attached to this report, which also contain the required tracked changes to the Constitution.

The Advisory Panel agreed all the proposed revisions with these exceptions or additions:

- **Travel and Conference Protocol:** The Advisory Panel recommended that, once drafted, officers submit a new policy on conference and travel to Ethics Committee for approval.
- **Rules for Contract:** The proposal to reduce the frequency of reports on the activities of the Procurement Board to the relevant Cabinet Member from every 6 to every 12 months was not approved. The Advisory Panel recommended that this continues to be made every 6 months. (Rule 9.2). In addition, officers will speak to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement.

- **Finance Procedure Rules:** The Advisory Panel recommended that a proviso be inserted so that where a grant bid will require match funding by the Council, there should be a requirement to seek the approval of the Cabinet Member and that footnote 6 in the table of financial thresholds should read “following consultation with the relevant Cabinet Member(s)”.
- **Protocol for Conferring the Title of Honorary Alderman:** The Advisory Panel recommended that Paragraph 2 d) be amended to increase the minimum service required as a Member from 15 to 20 years.

Recommendations:

The Cabinet Member is requested to recommend to Council the approval of recommendations (1) to (8).

Council is recommended to:

- (1) With regard to the Conference and Travel Protocol, agree that:
 - (a) The Conference and Travel Protocol be removed from the Constitution;
 - (b) Officers be authorised to produce a policy for the approval of conference and travel costs for members and officers;
 - (c) Once drafted, the policy be approved by Ethics Committee;
 - (d) A register of travel and conference attendance costing more than £500 and all travel outside of the UK to be maintained and published; and
 - (e) The register of travel and conference costs to be scrutinised by Ethics Committee twice a year.
- (2) Subject to the continued inclusion of the requirement for a six-monthly report to the relevant Cabinet Member in Rule 9.2, and to officers speaking to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement, agree to approve the proposed revisions to Part 3G of the Constitution (Rules for Contract) set out in Appendix 2 to this report.
- (3) With regard to the Financial Procedure Rules:
 - (a) Where a grant bid requires match funding by the Council, there should be a mandatory requirement to seek the approval of the relevant Cabinet Member;
 - (b) Footnote 6 to the table of financial thresholds be amended to read “Following consultation with the relevant Cabinet Member(s); and
 - (c) (Subject to (3)(a) and (3)(b) above, the proposed revisions to Part 3F of the Constitution set out in Appendix 3 to this report be approved.
- (4) In relation to amending paragraph 8.5 of the Audit and Procurement Committee’s Terms of Reference:
 - (a) Delegate authority to the Monitoring Officer and City Solicitor to remove all reference to severance packages from the paragraph on the enactment of The Restriction of Public Sector Payments Regulations; and

- (b) Agree that the reference to “salary over £100,000” be amended to “salary level for a new post over £100,000”.
- (5) With regard to the Protocol for Conferring the Title of Honorary Alderman or Alderwoman agree that:
 - (a) The length of service requirement be increased from 15 to 20 years;
 - (b) Subject to (a) above, the Protocol for Conferring the Title of Honorary Alderman or Alderwoman be amended as detailed in Appendix 5 to this report.
- (6) The proposed revisions to Part 4A of the Constitution (Code of Conduct for Elected and Co-opted Members) set out in Appendix 6 to this report be approved
- (7) Approve the proposed revisions to Part 2F and 2M of the Constitution (Functions of Licensing and Regulatory Committee and Scheme of Delegation to Employees) set out in the Appendix 7 to this report.
- (8) Authorise the Monitoring Officer to make any necessary amendments to the Constitution arising from recommendations (1) to (7).

List of Appendices included:

Appendix 1: Revisions for Conference and Travel Protocol: Part 4E of the Constitution
Appendix 2: Revisions to the Rules for Contract: Part 3G of the Constitution
Appendix 3: Revisions to Financial Procedure Rules Part 3 F of the Constitution
Appendix 4: Audit and Procurement Committee - Terms of Reference "Salaries"
Appendix 5: Protocol for Conferring the Title of Honorary Aldermen or Alderwomen
Appendix 6: Revisions to Part 4A - Code of Conduct for Elected Members
Appendix 7: Revisions to Part 2F - Functions of Licensing and Regulatory Committee and
Revisions to Part 2M - Scheme of Functions Delegated to Employees

Background papers:

None

Other useful documents:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

The proposals were considered by the Constitutional Advisory Panel at its meeting on 19 November, 2019

Will this report go to Council?

Yes – 17 March 2020

Report title: Proposed Changes to the Constitution

1. Context (or background)

- 1.1 The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living document and needs to be updated from time to time to ensure that it reflects changes in practices within the Council.
- 1.2 The Constitutional Advisory Panel at its meeting on 19 November 2019 considered a number of proposed changes to the Constitution. These were:
 - (a) Revisions to the Conference and Travel Protocol: Part 4E of the Constitution
 - (b) Revisions to the Rules for Contract: Part 3G
 - (c) Revisions to the Financial Procedure Rules: Part 3F
 - (d) Audit and Procurement Committee Terms of Reference: Part 2I
 - (e) Protocol for Conferring the Title of Honorary Alderman
 - (f) Code of Conduct for Elected and Co-opted Members: Part 4A
 - (g) Licensing and Regulatory Committee Terms of Reference: Parts 2F and 2M

The Advisory Panel also received a preliminary oral report about changes that would be required to Proper Officer functions following the retirement of the Deputy Chief Executive, Place in 2020. This is the subject of a separate report to the Cabinet Member for Policing and Equalities and Council.

- 1.3 Further details of the main changes proposed are set out in Section 2 of this report and more particularly in the Appendices to the report.

2. Options considered and recommended proposals

2.1 Conference and Travel Protocol

The proposed changes to the Conference and Travel Protocol are set out in **Appendix 1**.

The Advisory Panel recommended that:

- (a) The Conference and Travel Protocol be removed from the Constitution;
- (b) Officers be authorised to produce a policy for the approval of conference and travel costs for members and officers;
- (c) Once drafted, the policy be approved by Ethics Committee;
- (d) A register of travel and conference attendance costing more than £500 and all travel outside of the UK to be maintained and published; and
- (e) The register of travel and conference costs to be scrutinised by Ethics Committee twice a year.

As the recommendation is to remove the Protocol from the Constitution and replace it with a policy to be approved by the Ethics Committee, there are, at this stage, no amendments to the Protocol to be approved.

2.2 Rules for Contract

The proposed changes to the Rules for Contract are set out in **Appendix 2**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

Subject to the continued inclusion of the requirement for a six-monthly report to the relevant Cabinet Member in Rule 9.2, and to officers speaking to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement:

- (a) the proposed revisions to Part 3G of the Constitution set out in Appendix 2 to this report be approved; and
- (b) The Monitoring Officer be authorised to make the necessary amendments to the Constitution.

2.3 Financial Procedure Rules

The proposed changes to the Finance Procedure Rules are set out in **Appendix 3**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

- (a) Where a grant bid requires match funding by the Council, there should be a mandatory requirement to seek the approval of the relevant Cabinet Member;
- (b) Footnote 6 to the table of financial thresholds be amended to read “Following consultation with the relevant Cabinet Member(s);
- (c) Subject to (a) and (b) above, the proposed revisions to Part 3F of the Constitution set out in Appendix 3 to this report be approved; and
- (d) The Monitoring Officer be authorised to make the necessary amendments to the Constitution.

2.4 Audit and Procurement Committee Terms of Reference

The proposed changes to the Terms of reference of Audit and Procurement Committee are set out in **Appendix 4**.

The Advisory Panel recommended that the Cabinet Member recommends to Council that:

That in relation to amending paragraph 8.5 of the Audit and Procurement Committee’s Terms of Reference:

- (a) To delegate authority to the Monitoring Officer and City Solicitor to remove all reference to severance packages from the paragraph on the enactment of The Restriction of Public Sector Payments Regulations; and
- (b) That the reference to “salary over £100,000” be amended to “salary level for a new post over £100,000”.

2.5 Protocol for Conferring the Title of Honorary Alderman or Alderwoman

The proposed changes to the Protocol for Conferring the Title of Honorary Alderman or Alderwoman are set out in **Appendix 5**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

- (a) The length of service requirement be increased from 15 to 20 years;
- (b) Subject to (a) above, the Protocol for Conferring the Title of Honorary Alderman or Alderwoman be amended as detailed in Appendix 5 to this report.

2.6 Code of Conduct for Elected and Co-opted Members

The proposed changes to the Code of Conduct for Elected and Co-opted Members are set out in **Appendix 6**.

The Panel recommended that the Cabinet Member recommend to Council that:

- (a) the proposed revisions to Part 4A of the Constitution set out in Appendix 6 to this report be approved; and
- (b) the Monitoring Officer be authorised to make the necessary amendments to the Constitution.

2.7 Licensing and Regulatory Committee Terms of Reference

The proposed changes to the Functions of Licensing and Regulatory Committee and Scheme of Delegation to Employees are set out in **Appendix 7**.

The Panel recommended that the Cabinet Member recommend to Council that:

- (a) To approve the proposed revisions to Part 2F and 2M of the Constitution set out in the Appendix 7 to this report; and
- (b) To authorise the Monitoring Officer to make the necessary amendments to the Constitution.

2.8 **Recommendations**

The Cabinet Member is requested to recommend to Council the approval of recommendations (1) to (8).

Council is recommended to:

- (1) With regard to the Conference and Travel Protocol, agree that:
 - (a) The Conference and Travel Protocol be removed from the Constitution;
 - (b) Officers be authorised to produce a policy for the approval of conference and travel costs for members and officers;
 - (c) Once drafted, the policy be approved by Ethics Committee;
 - (d) A register of travel and conference attendance costing more than £500 and all travel outside of the UK to be maintained and published; and
 - (e) The register of travel and conference costs to be scrutinised by Ethics Committee twice a year.
- (2) Subject to the continued inclusion of the requirement for a six-monthly report to the relevant Cabinet Member in Rule 9.2, and to officers speaking to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement, agree to approve the proposed revisions to Part 3G of the Constitution (Rules for Contract) set out in Appendix 2 to this report.
- (3) With regard to the Financial Procedure Rules:
 - (a) Where a grant bid requires match funding by the Council, there should be a mandatory requirement to seek the approval of the relevant Cabinet Member;

- (b) Footnote 6 to the table of financial thresholds be amended to read “Following consultation with the relevant Cabinet Member(s); and
 - (c) (Subject to (3)(a) and (3)(b) above, the proposed revisions to Part 3F of the Constitution set out in Appendix 3 to this report be approved.
- (4) In relation to amending paragraph 8.5 of the Audit and Procurement Committee’s Terms of Reference:
- (a) Delegate authority to the Monitoring Officer and City Solicitor to remove all reference to severance packages from the paragraph on the enactment of The Restriction of Public Sector Payments Regulations: and
 - (b) Agree that the reference to “salary over £100,000” be amended to “salary level for a new post over £100,000”.
- (5) With regard to the Protocol for Conferring the Title of Honorary Alderman or Alderwoman agree that:
- (a) The length of service requirement be increased from 15 to 20 years;
 - (b) Subject to (a) above, the Protocol for Conferring the Title of Honorary Alderman or Alderwoman be amended as detailed in Appendix 5 to this report.
- (6) The proposed revisions to Part 4A of the Constitution (Code of Conduct for Elected and Co-opted Members) set out in Appendix 6 to this report be approved
- (7) Approve the proposed revisions to Part 2F and 2M of the Constitution (Functions of Licensing and Regulatory Committee and Scheme of Delegation to Employees) set out in the Appendix 7 to this report.
- (8) Authorise the Monitoring Officer to make any necessary amendments to the Constitution arising from recommendations (1) to (7).

3. Results of consultation undertaken

- 3.1 The proposed amendments have been considered, and approved, by the Constitutional Advisory Panel.

4. Timetable for implementing this decision

- 4.1 If the proposed changes are approved, they will go forward to full Council for approval and be implemented immediately, except for Recommendation 4(a), which will be implemented when the regulations come into force.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no direct financial implications from this report.

5.2 Legal implications

The Council is required by Section 9P of the Local Government Act 2000 to not only prepare but also keep up to date its Constitution. This report assists the Council in keeping its Constitution up to date.

6. Other implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable

6.2 How is risk being managed?

Updating the Constitution will help to reduce the risk of challenge to the Council which might arise if the Constitution were to become out of date and not reflect current practices and procedures.

6.3 What is the impact on the organisation?

None

6.4 Equality and Consultation Analysis (ECA)

There are no public sector equality duties which relevant.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None

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Graham Clark	Lead Accountant	Place	21/02/20	28/02/20
Julie Newman	Head of Legal Services and Monitoring Officer	Place	04/02/20	11/02/20
Barry Hastie	Director of Finance and Corporate Services	Place	21/02/20	21/02/20
Councillor M Mutton	Chair of Constitution Advisory Panel	-	28/02/20	28/02/20
Councillor AS Khan	Cabinet Member	-	28/02/20	28/02/20

This report is published on the council's website: www.coventry.gov.uk/councilmeetings

Appendix 1: Conference and Travel Protocol

1. The Conference and Travel Protocol at Part 4E of the Constitution sets out the procedure for Councillors wishing to attend conferences, seminars or fact-finding visits or inspections. It also deals with foreign travel by both Councillors and employees.
2. The Protocol has not been reviewed for some years and officers feel that, while it needs some updating, it is also no longer appropriate for it to be in the Constitution.
3. Officers therefore suggest that the Protocol is removed from the Constitution but is replaced by a policy on travel and conference attendance for both members and officers. The Policy would provide that travel and conference attendance for officers and members would require the approval of the appropriate budget holder. In addition, any such expenditure which is likely to be £500 or more (including subsistence costs) would be required to be entered onto a public register, together with all travel outside the UK, which would be published by the Council. The register would also be scrutinised by Ethics Committee twice a year, which is in line with its current practice on scrutiny of gifts and hospitality received by members and officers.
4. Officers consider that the introduction of a public register and scrutiny by Ethics Committee provides a measure of openness and transparency which is not present in the current Protocol. For example, having a register online will make it easier for members of the public to see the extent of travel and attendance at conferences than at present.

Appendix 2: Rules for Contract

1. The Rules for Contract set out in Part 3E of the Constitution form the standing orders for officers and councillors for making contracts on behalf of the Council. The purpose of the Rules is to set out clear instructions for the procurement of works, goods and services for the Council and “to ensure a system of openness, integrity and accountability”.
2. The Rules have not been reviewed for some years and officers feel that they need some updating to reflect changing procurement practice and to make them fit for purpose. The proposed revised Contract Procedure Rules are attached as an Appendix to this briefing note with proposed amendments shown as track changes. Some minor changes are proposed:
 - (a) The document is to be renamed as “Contract Procedure Rules” to bring it in line with other Procedure Rules in Part 3 of the Constitution.
 - (b) The Index is updated.
 - (c) Definitions are moved to the end of the document and revised to reflect changes in council structure and job titles.
 - (d) The Summary of Rules for Contract-Quick Reference Guide at Rule 4 is replaced with an updated Summary of CPRs-Governance Process at Rule 2.
 - (e) References to the Public Contracts Regulations are updated to refer to the most recent version throughout the Rules.
 - (f) New sections have been included to make reference to the Council’s statutory obligations under the Public Services (Social Value) Act (Rule 26) and to the impact of other legislation, including the Data Protection Act (Rule 31).
3. More substantive revisions to the Rules are summarised below:
 - (a) Currently any contract over £150,000 in value must be sealed by the Head of Legal Services or authorised nominee. It is proposed to increase this to £1m.
 - (b) The threshold for competitive tenders to be sought is to be raised from £50,000 to £100,000.
 - (c) Any contract valued at between £10,000 and £50,000 must be subject to a minimum of three competitive quotations. It is proposed to permit oral quotations for contracts up to £24,999 (to be confirmed by email) and to make use of the quotation pack optional; contracts over £25,000 must be subject to competitive quotations and use the quotation pack. (see Rule 19)
 - (d) Rule 8.2 is deleted.
 - (e) The composition of the Procurement Board is amended to remove the requirement for the Chief Executive to be a member but including the Head of Procurement. (Rule 9.1)
 - (f) The requirement to provide a six-monthly report to the Cabinet Member on the activities of the Procurement Board becomes annual and the requirement to provide an annual report to Audit and Procurement Committee is removed. (Rule 9.2)

- (g) The power of the Chief Finance Officer to amend Rules for Contracts is removed. (Rule 9.2)
- (h) Directors are given the power to grant exceptions to the Rules for low value contracts up to £50,000. For higher value contracts, the exception must be granted by the Director responsible for the Procurement Service. Exceptions must be notified to the Procurement Service and an annual report will be made to the Procurement Board rather than to the Cabinet Member. (Rule 10)
- (i) The requirement to seek an exception for the purchase of works of art, museum artefacts etc is deleted. (Rule 10.6)
- (j) Automatic exception from the Rules is limited to £50,000 for contracts let under corporate contracts or framework agreements (Rule 10.7).
- (k) New automatic exceptions are introduced at Rule 10.7(e) to (g).
- (l) The threshold for entering contracts on the register is raised to £25,000 from £10,000 and the requirement to notify the Head of Procurement of such contracts is set out. (Rule 12.2)
- (m) References to the Common Commissioning framework are removed (Rule 13.1) and the rest of Rule 13 (previously 14) is deleted.
- (n) Rule 18 (opening formal tenders) has been revised to reflect the fact that the Council now conducts its tendering electronically.
- (o) Rule 23.7 is deleted (extending length of time tender price to be held open).
- (p) Rule 23.1 is amended to make it clear that any contract change note must be signed off by an appropriate officer.