
Cabinet Member for Policing and Equalities
Council

8 March 2021
16 March 2021

Name of Cabinet Member:

Cabinet Member for Policing and Equalities—Councillor AS Khan

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected: None

Title: Proposed Changes to the Constitution

Is this a key decision?

No - the decision whether to change the Constitution is reserved to Council

Executive Summary:

On 17 February the Constitutional Advisory Panel considered a number of proposed changes to the Constitution. These were changes to:

- the Contract Procedure Rules
- a proposed new Employee Code of Conduct
- the terms of reference of Planning Committee and consequential change to the scheme of delegation
- a review of Code of Good Planning Practice for Members and Employees Dealing with Planning Matters

The Panel resolved to recommend to the Cabinet Member that he recommend to full Council the adoption of the changes which are set out in more detail in this report.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to:

- 1) Approve the proposed changes to the Contract Procedure Rules shown in Appendix 1 to the report;
- 2) Approve the revised Code of Conduct for Employees set out in Appendix 2 to the report;

- 3) Approve the changes to the Terms of Reference of Planning Committee and the Scheme of Delegation to Employees set out in paragraphs 2.10 to 2.12 of the report
- 4) Approve the proposal that, once the Planning Committee has approved the new Planning Code, that the new Planning Code is appended to the Constitution and made available on the Council's website, in accordance with the Constitution.
- 5) Recommend that the Council adopt the proposed changes to the Constitution

Council is requested to:

- 1) Approve the proposed changes to the Contract Procedure Rules shown in Appendix 1 to the report;
- 2) Approve the revised Code of Conduct for Employees set out in Appendix 2 to the report;
- 3) Approve the changes to the Terms of Reference of Planning Committee and the Scheme of Delegation to Employees set out in paragraphs 2.10 to 2.12 of the report
- 4) Approve the proposal that once the Planning Committee has approved the new Planning Code, that the new Planning Code is appended to the Constitution and made available on the Council's website, in accordance with the Constitution.

List of Appendices included:

Appendix 1: Revised Contract Procedure Rules

Appendix 2: Proposed Code of Conduct for Employees

Appendix 3: Existing Code of Conduct for 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?

Yes – this report was considered by the Constitution Advisory Panel on 17 February 2021

Will this report go to Council?

Yes – 16 March 2021

Report title: Proposed Changes to the Constitution

1. Context

- 1.1 On 17 February 2021, the Constitutional Advisory Panel considered a number of proposed changes to the Constitution. These are set out in more detail in the body of the report.
- 1.2 The Constitutional Advisory Panel recommended that the Cabinet Member recommend to full Council that the proposed changes set out section 2 of this report be approved in full.

2. Options considered and recommended proposal

Contract Procedure Rules

- 2.1 The Contract Procedure Rules (the CPRs) are the City Council's Standing Orders as required by the Local Government Act 1972. They form part of the City Council's constitution and are the instructions to officers and councillors for making contracts on behalf of the Council. The purpose of these CPRs is to set clear rules for the procurement of works, goods and services for the Council and to ensure a system of openness, integrity and accountability
- 2.2 The CPRs have been reviewed by officers who are suggesting some amendments to the rules to ensure they are up to date and fit for purpose.
- 2.3 The changes as highlighted in the appendix include:
 - Clarity around framework agreements requiring relevant Procurement Board or Panel approval with individual contracts over £1,000,000 requiring Cabinet approval.
 - Ensure authority for the signing and sealing of contracts is aligned to delegated authority at Part 2M of the constitution.
 - The value at which a Director can grant an exception to the CPRs to be increased to £100,000 to align with the tender values.
 - Confirm requirement to follow set process when contracts are being executed by electronic means.
- 2.4 A revised version of the CPRs is attached at Appendix 1 for consideration by the Cabinet Member.

Code of Conduct for Employees

- 2.5 The City Councils constitution includes a Code of Conduct for Employee's. This Code, when viewed, should reflect the Seven Principles of Public Life namely Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.
- 2.6 The Code of Conduct for Employees forms part of officer's terms and conditions of employment but does not apply to school-based teaching staff or centrally employed teachers who should maintain their own code.
- 2.7 The proposal is to review the Code so that it focuses on the overarching principles expected of those working in public services. It would then remove the additional rules, policies and procedures which should sit in a separate Procedural Code outside of the Constitution that can be updated as required by the Human Resources team in

consultation with the Cabinet Member for Finance and Resources and Trade Union colleagues.

- 2.8 The Gifts and Hospitality Register for employees will continue to be reviewed quarterly by the Ethics Committee and will align with the proposed new Members requirement to register all gifts and hospitality over £50.
- 2.9 A proposed revised version of the Code of Conduct for employees is attached at the Appendix 2 for consideration by the Panel. The existing Code is attached as Appendix 3.

Approval of Prosecutions by Planning Committee

- 2.10 On 14 January 2014, full Council resolved to amend the terms of reference of Planning Committee and the Officers' Scheme of Delegation to require all proposed prosecutions for matters within the terms of reference of the Committee to be first approved by the Committee. This brought the arrangements for planning prosecutions in line with the existing requirement for Licensing and Regulatory Committee to approve any proposed prosecutions within its terms of reference.
- 2.11 At its meeting on 8 September 2020 the Council resolved to approve changes to the terms of reference of Licensing and Regulatory Committee and to the Officers' Scheme of Delegation which removed the requirement for officers to obtain prior approval of the Committee before instituting prosecutions.
- 2.12 The Cabinet Member is now asked to approve removing the requirement for prior approval of planning prosecutions in order to retain consistency of approach between the two committees. This will entail deleting Paragraph 6.2 from the Terms of Reference of Planning Committee in Part 2G of the Constitution and Paragraph 6.14 of the Scheme of Delegation to Employees in Part 2M.

Updates to the Code of Good Planning Practice for Members and Employees Dealing with Planning Matters

- 2.13 The Planning Code is currently set out in Part 4C of the Constitution.
- 2.14 Part 2G, paragraph 4 (f) of the Constitution states the following:

Functions of Planning Committee...Functions Delegated to the Planning Committee...To approve, adopt, review, amend and revise codes of best practice and procedure for planning and other matters, including the Planning Code of Good Practice, within its terms of reference and to make the same publicly available.

It is therefore within the Planning Committee's powers to review and approve the updates to the Planning Code.

- 2.15 Paragraph 2.4 of the existing Planning Code states the following:
The Code will be appended to the Council's Constitution and is available to all Members, employees and members of the public.
- 2.16 Currently the Planning Code has been absorbed into the Constitution, rather than appended to it.
- 2.17 The Planning Code of Good Practice (the "Model Code") was originally prepared in 2014

in response to a series of successful court challenges concerning themselves with local planning authorities and the Members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now Lawyers in Local Government), the Local Government Association, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

2.18 Following its publication, the Model Code proved to be one of the most successful and popular guidance documents produced by LLG, being adopted by councils across the country.

2.19 The Model Code takes into account the following:

- updates to the Seven Principles of Public Life (the 'Nolan principles');
- commentary from the Committee on Standards in Public Life;
- the changes in the approach to codes of conduct;
- the changes to predetermination introduced by the Localism Act 2011;
- the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government 2013.

2.20 In accordance with good practice, it proposed to undertake a review of the Planning Code to encompass the changes embodied in the Model Code as identified and ensure that the Council's Planning Code is current, relevant and fit for purpose.

2.21 The Cabinet Member is asked to approve the proposal that once the Planning Committee has approved the new Planning Code, the new Planning Code is appended to the Constitution and made available on the Council's website, in accordance with the Constitution.

2.22 Recommendations:

The Cabinet Member for Policing and Equalities is requested to:

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Council is requested to:

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3 Results of consultation undertaken

The proposed changes to the Constitution have been considered by the Constitutional Advisory Panel.

4 Timetable for implementing this decision

It is proposed that the changes will take effect immediately on approval by full Council.

5 Comments from Director of Finance and Director of Law and Governance

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report. However the Council has a legal duty to keep and maintain up to date its Constitution.

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?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

The Constitution needs to be kept up to date and under review so that it reflects the current practices of the Council.

6.4 Equality Impact Assessment (EIA)

There are no public sector equality duties which are of relevance at this stage.

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

None

6.6 Implications for partner organisations?

None

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Legal: Julie Newman	City Solicitor and Monitoring Officer	Law and Governance	24.02.21	26.02.21
Councillor Abdul Khan	Cabinet Member for Policing and Equalities		26.02.21	26.02.21