

1. **CONSEQUENTIAL CHANGE TO THE CONSTITUTION**

Submitted by: Monitoring Officer

Portfolio: Communications, Policy and Partnerships

Ward(s) affected: All

Purpose of the Report

To ensure that the Constitution is up to date and fully complies with statute.

RECOMMENDATION:

- (a) That Council notes the update to Appendix 9, Rule 3 of the Procedure Rules for committees and Sub-Committees of Council;
- (b) That Council note the implications of (a) in relation to the resolution made at the Council meeting held on 25th February 2015 regarding the report on the Scheme of Delegation in Relation to the Planning Committee

1. **Background**

- 1.1 The Constitution is the set of rules that describe and constrain how the Council operates, how its decisions are made and the procedures to be followed.
- 1.2 Part 2, Section 15.2 of the Constitution states that changes to the Constitution will only be approved by the Full Council after consideration of any proposal by the Monitoring Officer, save that the Monitoring Officer may make consequential changes to the Constitution to reflect resolutions of the Council or Cabinet or decisions properly made under delegated powers and changes of fact and law subject to regular notification of Members to such changes.
- 1.3 The amendment to Appendix 9, Rule 3 of the Procedure Rules for committees and Sub-Committees of Council is a consequential change and has been updated to read as follows;
 - “3.1 (a) In the case of Rule 14 (Changing an earlier resolution) at a meeting of a committee or subcommittee no motion or amendment shall be moved which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period unless it is recommended by Full Council. A decision shall only be referred back to the original decision making body once.
 - (b) Section 3.1 (a) only applies where the earlier resolution was a key decision as defined in Section 13 in Part 2 of the Constitution. Where the decision is not a key decision Rule 14 of the Councils procedure rules (Appendix 7) does not apply.

A revised copy of Appendix 9 is annexed to this report.

2. Issues

2.1 At the meeting of Full Council on the 25 February 2015 the following amendment was passed regarding Agenda Item 9 Scheme of Delegation in Relation to Planning Functions

“to delete the existing recommendation and replace it with;

....the revised Planning Scheme of Delegation set out in the Appendix to this report be referred back to the Planning Committee for further consideration to take account of points raised by the Council at its meeting on 25 February 2015 and that a revised version be brought to the Council at its meeting on 15 April 2015.....”

Questions have been raised since the meeting regarding the validity of the amendment and it is the opinion of the Monitoring Officer that this amendment was invalid due to the fact that an amendment.

“must not negate the motion that it seeks to alter when the same effect can be achieved by voting against the motion”. (Knowles on Local Authority Meetings).

However, if the Council had voted against the original recommendation, Procedure Rule 14 would have applied to the Planning Committee which would mean that the Committee would not have been able to reconsider the matter for a period of 6 months. This is because the same rule also applies to committees by virtue of Rule 3.1 of the Procedure Rules for Committees and Sub committees.

Rule 14 of the Procedure Rules is designed as an anti-frustration provision to ensure that decisions can be implemented in a timely manner and not changed within a short period.

A consequential amendment to Rule 3.1 of the Procedure Rules for Committees and Sub committees is therefore required to avoid a potential impasse, where the Council may need to direct a Committee or Sub-Committee.

The resolution of the Council made at the meeting held on 25th February is therefore rescinded and the original recommendations listed in the report will be brought back to Council for consideration at the next Full Council meeting on the 20 May 2015.

3. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

The Constitution governs the way the Council works. These changes are intended to enable the public, Members and officers to engage more effectively with the decision making processes of the Council and also ensure that processes are lawful. Improvements to processes are key to the corporate priority of becoming a Co-operative Council.

An effective Constitution contributes to the overall ethical wellbeing of the Council, and helps to ensure a culture of high ethical standards, which the public and the Council’s partners can have confidence in. This will thereby also contribute to the Council’s priority of becoming a Co-operative Council.

3. Legal and Statutory Implications

It is a legal requirement that the Council has a Constitution that accords with the law.

The Council is required by common law and statute (principally the Local Government Acts 1972 and 2000, and the Local Government and Housing Act 1989) to regulate its proceedings and to have an up to date Constitution which is fit for purpose.

4. Equality Impact Assessment

Where impact has been identified it has been addressed.

5. Major Risks

That the Constitution will be inaccessible, procedures will be inefficient or decisions are vitiated by reason of unlawful procedure with consequential damage to the reputation, finances and objectives of the Council.

6. Financial Implications

No resources will be required in relation to the amendments. The Constitution provides the framework and rules for ensuring value for money.

7. Key Decision Information

The Constitution affects all decisions and therefore all wards. The majority of the Constitution deals with non-Executive matters.

8. Background papers

The Constitution
Knowles on Local Authority Meetings