

Southend-on-Sea City Council

Agenda
Item No.

Report of Executive Director
(Strategy, Change & Governance)

To
Council

On
2nd March 2023

Report prepared by: Colin Gamble and Giles Gilbert

Review of the Constitution

Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 This report sets out the recommendations of the General Purposes Committee on 9th February 2023 in relation to the Council Procedure Rules and the Overview and Scrutiny Procedure Rules. The Rules have been reviewed following consultation with the political groups on the Council and the non-aligned Councillors and in the light of the feedback from the Informal meeting of the General Purposes Committee held on 16th January 2023.
- 1.2 The General Purposes Committee also made recommendations relating to the terms of reference of the Independent Remuneration Panel and the appointment of Deputy Electoral Registration Officers.

2. Recommendations

The General Purposes Committee recommended to Council:

2.1 That the revised Overview and Scrutiny Procedure Rules and Council Procedure Rules (Appendices A and B) be adopted for implementation at the beginning of the Municipal Year 2023/24.

2.2 That the Terms of Reference of the Independent Remuneration Panel (Appendix C), be approved.

2.3 That the Electoral Registration Officer (ERO) be authorised to appoint Deputy Electoral Registration Officers to carry out his powers and duties either in full or in part in accordance with section 52(2) of the Representation of the People Act 1983

2.4 That the Council's Constitution be amended accordingly (to include the transfer of the relevant provisions in the existing Council Procedure Rules to other parts of the Constitution as appropriate).

3. Background

3.1 At the meeting of the General Purposes Committee held on 5th October 2022, it was agreed that the first part of the review of the Constitution should focus on the Council Procedure Rules to be considered alongside the Overview and Scrutiny Procedure Rules. The Overview and Scrutiny Procedure Rules and the Council Procedures Rules were redrafted following consultation with the political groups and the non-aligned councillors and in the light of the feedback from the Informal meeting of the General Purposes Committee held on 16th January 2023. The General Purposes Committee met on 9th February to consider both sets of Rules. The revised Rules recommended for adoption by the Committee are set out at Appendices A and B to this report.

Overview and Scrutiny Procedure Rules

3.2 The report of the Centre for Governance and Scrutiny (CfGS), noted at the meeting of the Committee on 5th October, proposed a revised approach to scrutiny involving the increased use of pre-decision scrutiny. The report emphasized that this should lead to scrutiny more clearly demonstrating added value through the work carried out, and result in a significant reduction in the number of call-ins. The benefits of the earlier use of scrutiny were also recognised in the constitution review report produced by Bevan Brittan (considered by the General Purposes Committee, 21 July 2021) which considered that this could assist in building stronger relationships between the Executive and the rest of the Council, besides reducing the frequency of call-ins.

3.3 At the Informal meeting of the General Purposes Committee, it was considered that it would be helpful for some guidance to be produced on how the pre-decision scrutiny process would operate. Accordingly, revised guidance has been drafted and included as part of the proposed Overview and Scrutiny Procedure Rules.

3.4 Both the above-mentioned reports highlighted that the call-in provisions are not subject to any limitations and should be addressed as part of the constitution review. The proposed revisions to the Overview and Scrutiny Procedure Rules include the following provisions which should strengthen the current arrangements:

- The completion of a form for all decisions proposed to be called-in.
- Prior to the scrutiny committee, a meeting to be held with the lead councillor responsible for calling-in a decision (with the other two signatories to the call-in request to be invited), the relevant Cabinet member, and the chair of the committee to discuss the issue.
- The lead councillor to submit an outline case to be presented to the committee together with any supporting evidence not less than three working days before the date of the meeting.

3.5 The recommended Overview and Scrutiny Procedure Rules are set out at Appendix A.

Council Procedure Rules

- 3.6. The reports by the CfGS and Bevan Brittan also referred to some longstanding provisions in the Council Procedure Rules which were considered to be in need of review. In particular, the reports drew attention to the reservation of minutes (standing order 7) which most local authorities had not carried out since the introduction of the new governance arrangements in 2000. This practice was felt to be unnecessary and led to duplication of work.
- 3.7. Another unusual practice identified in both reports is the arrangement which allows councillors to 'refer up' matters from the scrutiny committees to Council (standing order 39) for further consideration. This provision was also felt to be unnecessary as it delays effective decision-making and undermines the work of the committees.
- 3.8. By removing standing orders 7 and 39, there is scope to make changes to the Rules to provide more opportunity for debate on motions of relevance to the city. A new provision on Notices of Motion (requiring advance notice) is proposed which would allow motions to be debated rather than simply being referred, without debate, to the relevant Cabinet Working Party. The removal of the provision on Opposition Business would also allow more time for debate on motions.
- 3.9. Other changes to the Council Procedure Rules include:
- Giving the Mayor an opportunity to provide an update on his or her activities during the Municipal Year.
 - Providing the Leader with an opportunity to make a speech on the main areas of the work of the Cabinet. Opposition group(s) and Non-Aligned councillors to have the opportunity to respond.
 - Strengthening the question provisions (public and councillors) by granting express powers to the Monitoring Officer to reject questions where those questions are considered to be out of order, illegal, irregular or improper.
 - Improving the format and flow of the Rules by removing information that is better placed in other parts of the Constitution and changing the order of some of the provisions.
- 3.10. The recommended Council Procedure Rules are attached at Appendix B.

Independent Remuneration Panel

- 3.11. Since 2007 Southend has shared a Joint Independent Remuneration Panel with Thurrock Council to review Members' Allowances and has met on the following occasions: June 2007, August 2010, June 2011, June 2015 and June 2019. Thurrock Council has recently notified this Council of its decision to end the joint arrangements and establish a new Independent Panel solely for that Authority. Therefore, the terms of reference for the Panel have been amended to reflect that Southend will not be working in collaboration with Thurrock Council in undertaking a review of Members' Allowances.
- 3.12. The revised terms of reference for the Southend Independent Remuneration Panel are set out at Appendix C.

Electoral Registration Officer – Delegation of Powers

- 3.13 Under Section 8(2) of the Representation Act 1983, the Council must appoint an Electoral Registration Officer (ERO) to be responsible for compiling and maintaining the register of electors. This statutory post is held by the Chief Executive.
- 3.14 By virtue of Section 52(2) of the 1983 Act, the Council can appoint Deputy Electoral Registration Officers (DERO). The Council can also formally delegate the appointment of DEROs to the ERO. In accordance with the Electoral Commission guidance, and to ensure that there are officers available to discharge the electoral registration functions, it would be prudent to make arrangements for the ERO to be able to delegate his powers and duties.
- 3.15 It is therefore recommended that the ERO is given delegated authority to appoint other Council officers to carry out his powers and duties either in full or in part in accordance with provisions of the 1983 Act.

4. Other Options

- 4.1 Not to adopt the recommended changes to the Constitution. However, this would mean losing an opportunity to enable councillors to improve the Council's decision-making processes, as well as a loss to the investment already undertaken in this work.

5. Reasons for Recommendations

- 5.1 To ensure that the Council's Constitution is accurate and fit for purpose to effectively support the service delivery and decision-making responsibilities of the Council in a lawful manner.

6. Corporate Implications

- 6.1 Contribution to the Southend 2050 Road Map

This work supports the Council's condition for 'simple and effective governance', as well as to build an agile, collaborative and skilled workforce equipped to deliver Southend 2050 and the new Corporate Plan. The review complements work to improve effective working relationships between councillors and officers, which in turn enables more understanding of priorities, strengthened collaboration, and better outcomes towards the Southend 2050 roadmap.

- 6.2 Financial Implications

There are no specific financial implications associated with this report. Improved decision-making processes will help enhance the efficiency and effectiveness and, therefore, the value for money achieved by the Council.

6.3 Legal Implications

The Local Government Act 2000 requires the Council to have and maintain a Constitution. The documents described in the report and set out as appendices form part of the Constitution.

6.4 People Implications

The review aims to contribute to the effective working relations between councillors and officers to help underpin the work to embed the Council's values and behaviours. However, no specific people implications are noted in relation to this report.

6.5 Consultation

Consultation with councillors was undertaken and the feedback has been taken into account in reviewing the documentation (Council Procedure Rules and Overview and Scrutiny Procedure Rules).

6.6 Equalities and Diversity Implications

Revisions to the Constitution will reflect the Council's approach to equality and inclusivity, including the use of gender-neutral language.

7. **Appendices**

Appendix A – Overview and Scrutiny Procedure Rules

Appendix B – Council Procedure Rules

Appendix C – Terms of Reference – Independent Remuneration Panel