

<b>Meeting:</b>	Standards Committee
<b>Date:</b>	18 November 2024
<b>Classification:</b>	Unrestricted
<b>Key Decision:</b>	No
<b>Title of Report:</b>	Constitution Review Stage 4 Review of amended draft of Part 7 of the Work Programme, Review and agree Parts 3 and 4 of the Work Programme and Consideration of Financial Procedure Rules and Contract Procedure Rules
<b>Executive Director:</b>	Claire Shuter
<b>Report Author:</b>	Susan Zeiss
<b>Executive Councillor:</b>	Cllr Daniel Cowan, Leader of the Council

## **1. Executive Summary**

- 1.1. At the meeting of Standards Committee on 12 November 2024, Committee considered and agreed for recommendation to Council on 12 December the revised drafts of Part 5 (Overview & Scrutiny) and Part 6 (Councillors) of the proposed new constitution for Southend-on-Sea City Council.
- 1.2 Committee further agreed that officers bring the revised draft of Part 7 (Officers) to this meeting.
- 1.3 This work constitutes the ongoing Stage 4 (Drafting) of the agreed Work Programme.
- 1.4 Committee will also be asked to consider a draft of the Contract Procedure Rules and consider the programming of a review of the Financial Procedure Rules.
- 1.5 A number of other documents which will be accessible via links in the Constitution but not directly form part of it will be put before Committee for discussion.

## **2 Recommendations**

**It is recommended that Committee:**

- 2.1 **Notes the summary of suggested drafting amendments made by Committee (with annotations from our external advisors, Anthony Collins) at its meeting on 12 November listed at Appendix A to this report and which will be circulated as soon as practicable in a supplementary pack; and**

- 2.2** Reviews and agrees the revised and final drafting of Part 7 (Officers) of the proposed constitution following the comments of the Committee at its meeting on 12 November listed at Appendix B to this report and which will be circulated as soon as practicable in a supplementary pack; and
- 2.3** Reviews and agrees the final drafting of Part 3 (Committees) of the proposed constitution as set out in Appendix C to this report; and
- 2.4** Reviews and agrees the final drafting of Part 4 (The Executive and Joint Arrangements) of the proposed constitution as set out in Appendix D to this Report; and
- 2.5** Reviews and agrees the revised and final drafting of the Contract Procedure Rules as set out in Appendix E to this report; and
- 2.6** Agrees that the following documents and protocols will be accessible through links in the constitution itself, but will not form part of it:
- **Probity in Planning**
  - **Executive/Scrutiny Protocol**
  - **Petitions Scheme**
  - **Freedom of the City and Honorary Alderman Scheme**
  - **Public Speaking Rules**
  - **Licensing Hearing Procedure Rules**
  - **Cabinet Portfolios**
- 2.7** Agrees that the existing Financial Procedure Rules as set out in Appendix F to this report will not form part of the current Constitution Review at this stage but will continue to be in force until they are reviewed and ready for implementation at the commencement of the new financial year.

### **3. Background**

- 3.1.** Standards Committee agreed at its meeting on 16 July 2024 to recommend to Council that the constitution follow the style and format of the modern style constitution, where the sections are grouped into themes which follow the functions of the council.
- 3.2.** Officers have therefore divided all the required component parts of a constitution including both those required by law and those over which the Council has a discretion into parts as described in the work programme. First drafts of suggested new provisions will be brought before Committee in sequence, first for direction as to the requested drafting of provisions and thereafter at a following meeting, for that drafting to be approved by Committee for onward recommendation to Council.

- 3.3. As part of the ongoing work of the Committee to review the constitution, this report brings before Committee for consideration:
- 3.3.1 The summary of suggested drafting amendments made by Committee (with annotations from our external advisors, Anthony Collins) at its meeting on 12 November listed at Appendix A to this report will be circulated in a supplementary as soon as practicable after the meeting on 12 November 2024;
- 3.3.2 Members are asked to consider the revised drafting of Part 7 (Officers) of the proposed constitution as set out in Appendix B to this report, which will be circulated in a supplementary pack as soon as practicable after the meeting on 12 November 2024. This includes the following components:
- Officers
  - Management Structure
  - Scheme of Delegation to Officers
  - List of Proper Officers (and Designated Posts)
  - Employee Code of Conduct
  - Staff Employment Procedure Rules
- 3.3.3 Following further suggestions and comments from members made at Standards Committee on 22 October 2024, Members are asked to agree the final drafts of Parts 3 (Committees) and 4 (The Executive and Joint Arrangements), attached to this report at Appendices C and D.
- 3.3.3 Committee will also be asked to consider a draft of the Contract Procedure Rules which has been prepared by our external legal advisers to comply with the requirements of the Local Government Act 1972 and also takes into account the legislative changes brought in by the Procurement Act 2023 which will come into force on 23 February 2025. This can be viewed at Appendix E to the report.
- 3.3.4 The Financial Procedure Rules as set out in the current Constitution and attached at Appendix F to this report will remain in force until reviewed at a date to be agreed.
- 3.3.5 Agrees that the following documents and protocols will be accessible through links in the constitution itself, but will not form part of it in order that these working documents can be more flexibly amended in response to changes in legislation, Guidance and good practice. This will also have the effect of not unduly increasing the length of the constitution itself:
- Probity in Planning
  - Executive/Scrutiny Protocol
  - Petitions Scheme
  - Freedom of the City and Honorary Alderman Scheme
  - Public Speaking Rules
  - Licensing Hearing Procedure Rules
  - Cabinet Portfolios

#### **4. Reasons for Decisions**

- 4.1. Council agreed on 13 June 2024 to undertake a complete review and rewrite of its constitution.

#### **5. Other Options Considered**

- 5.1. The Council must have a constitution by law. Not having a compliant constitution is not an option that can be followed.
- 5.2. The option to amend the existing constitution in part only was discounted as it presented to great a risk of inconsistencies and inaccuracies remaining in the document. In addition, the style and format of the existing constitution required complete revision and modernisation, which would be difficult to achieve if only some parts were amended.

#### **6. Financial Implications**

- 6.1. At this stage there are no additional financial implications from the proposals contained within this report.

#### **7. Legal Implications**

- 7.1. It is a requirement of the Local Government Act 2000 that the Council has a constitution, there is a risk that the constitution in its current form may give rise to legal challenges about the Council's governance framework and decision-making procedures.

#### **8. Equalities**

- 8.1. There are no known Equalities impacts at this stage.

#### **9. Consultation**

- 9.1. Consultation with Members will be undertaken through the Standards Committee, which is a cross-party committee of Council, as well as engagement and training sessions with all councillors. The Committee will also invite suggestions and contributions from all councillors in advance of the Committee considering draft provisions.
- 9.2. There will be consultation with officers through engagement with all services through the drafting, decision-making and training processes.

#### **10. Appendices**

- 10.1 **Appendix A:** Notes of Members' comments on drafting annotated by Anthony Collins (to follow in a supplementary pack)
- 10.2 **Appendix B:** Revised draft of Part 7 (Officers) (to follow in a supplementary pack)
- 10.3 **Appendix C:** Final draft of Part 3 (Committees)
- 10.4 **Appendix D:** Final draft of Part 4 (The Executive and Joint Arrangements)

10.5 **Appendix E:** Final draft of Contract Procedure Rules

10.4 **Appendix F:** Existing Financial Procedure Rules

**11. Report Authorisation**

<b>This report has been approved for publication by:</b>		
	<b>Name:</b>	<b>Date:</b>
S151 Officer	Joe Chesterton	
Monitoring Officer	Susan Zeiss	
Executive Director(s)	Claire Shuter	
Relevant Cabinet Member(s)	Cllr Daniel Cowan	