

Meeting: Standards Committee
Date: 27 November 2024
Classification: Unrestricted
Key Decision: No
Title of Report: **Constitution Review Stage 4 Part 8 Review and Wash Up**

Executive Director: Claire Shuter
Report Author: Susan Zeiss
Executive Councillor: Cllr Daniel Cowan, Leader of the Council

1. Executive Summary

- 1.1 The review of the Council's Constitution agreed by Council on 13 June has reached the final drafting stage, which is Part 8, the Wash Up.
- 1.2 In this stage, Committee will be asked to consider the final draft of the new proposed constitution as a whole for consistency of drafting, use of Plain English, use of gender-neutral language, accurate cross-references and completeness and to agree the final draft to be recommended to Council for approval and adoption.

2. Recommendations

That Committee:

- 2.1 **Examines the entire draft of the proposed Constitution for Southend-on-Sea City Council as set out in Appendix B to this report and agrees that it be recommended to Council at its meeting on 12 December 2024 for approval and subsequent adoption in two stages, namely:**
 - 2.1.1 **that the whole of the constitution except all those provisions relating to the numbers of Members allocated to Committees be adopted on 12 December 2024 directly after approval by Council; and;**
 - 2.1.2 **that all those provisions relating to the numbers of Members allocated to Committees be adopted at the Annual Council in May 2025.**
- 2.2 **Notes that the Financial Procedure Rules in Part 7 (Officers) has not been reviewed at this time and remains in its current form as published on the Council's website.**

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 At its first meeting to commence the review of the Constitution, Standards Committee agreed the work programme and timeline for the review and made the following observations:
- That the timescale for completion was challenging and that the work would need to be completed at pace in order to complete the review by December 2024.
 - That a review of the whole constitution was a priority.
 - That the revised constitution must be a document that is as simple, accessible and easy to understand for everyone (Councillors, officers and the public) as possible.
 - That the review must be member-led and that all Councillors should be engaged in the process.
 - That the format should follow the modern themed approach.
- 3.3 At this first meeting, Standards Committee also agreed some foundation Principles that the drafting should adhere to and that it should be:
- In Plain English
 - Simple and accessible
 - Transparent
 - Member-led
 - Support efficient decision making.
- 3.4 During a series of meetings over the period July - November 2024, Committee has considered all of the components of a compliant Local Authority Constitution as required in the Localism Act 2011 and suggested amendments to be drafted as permitted under the discretions allowed in the Act.

These components are:

Part 1 (Summary and Explanation)

1. Summary and Explanation
2. Public Participation with Southend-on-Sea City Council
3. Decision-making and Key Decisions
4. Access to Information Procedure Rules
5. Petition Scheme

Part 2 (The Council)

1. The Council
2. Role of Council
3. Budget and Policy Framework
4. Council Procedure Rules
5. Budget and Policy Framework procedure Rules
6. Honorary Alderman and Freedom of the City Scheme

Part 3 (Committees)

1. The Committee Structure
2. Committee Procedure Rules
3. Planning Committee Procedure Rules
4. Planning Committee Terms of Reference
5. Licensing Committee Procedure Rules
6. Licensing Committee Terms of Reference
7. Standards Committee
8. Audit & Governance Committee
9. General Purposes Committee
10. Health & Wellbeing Board
11. Senior Appointments and Pay Committee

Part 4 (The Executive)

1. Executive Arrangements
2. The Leader and Cabinet Model
3. The Role of Cabinet
4. Cabinet
5. Cabinet Procedure Rules
6. Joint Authorities
7. Joint Committees

Part 5 (Overview and Scrutiny)

1. Overview and Scrutiny Arrangements
2. Overview and Scrutiny Committee Procedure Rules
3. The Call-In Procedure
4. Call-In and Urgency
5. Pre-decision Scrutiny

Part 6 (Councillors)

1. Role of Councillors and Office Holders
2. Code of Conduct for Councillors
3. Arrangements for Dealing with Complaints against Councillors
4. Protocol on Member/Officer relationships
5. Scheme of Member Allowances

Part 7 (Officers)

1. Officer Management Structure
2. Scheme of Delegation to Officers
3. List of Proper Officers (and Designated Posts)
4. Employee Code of Conduct
5. Staff Employment Procedure Rules
6. Contract Procedure Rules

- 7. Financial Procedure Rules
- 8. Property Procedure Rules

- 3.5 Please note that the Financial Procedure Rules at section 7 of Part 7 (Officers) has not yet been reviewed by this Committee and remains in the form as published in the current Southend-on-Sea City Council Constitution. Officers will prepare a suggested draft of these Procedure Rules and bring a report to Committee as soon as possible in 2025 with the view to approval by Council before the end of March 2025.
- 3.6 Committee's attention is particularly drawn to the sections where a marked change to current arrangements will be introduced on approval and adoption of the Constitution by Council. These are, in summary, the following:
 - 3.6.1 In Part 1 (Summary and Explanation) section 3 and 4 (The Executive) – the Key Decision Threshold is increased from £250,000 to £500,000.
 - 3.6.2 In Part 2 (The Council) section 3 (Council Procedure Rules Rule 3.14 - Time Limits for responses to Updates from the Leader.
 - 3.6.3 In Part 3 (Committees) - Review of Committee Terms of reference and size
 - 3.6.4 In Part 3 (Committees) - Consolidation of Appeals Committees A and B to hear Home to School Transport Appeals only
 - 3.6.5 In Part 4 (The Executive) Ability to have deputy cabinet members
 - 3.6.6 In Part 5 (Overview and Scrutiny) The establishment of an additional Overview and Scrutiny Committee specifically for Health. Committee is asked to consider the amended remits for these Overview and Scrutiny Committees as set out in **Appendix C** to this report;
 - 3.6.7 In Various Parts: Ability to set up working parties but the specific Terms of Reference and names of existing Cabinet Working Parties have been removed.
- 3.7 Attached to this report is a list of the comments and drafting suggestions Made by Members at Committee on Monday 18 November 2024 at **Appendix A**
- 3.8 Committee's attention is also drawn to the control-list of changes that have been brought about in the proposed constitution as set out in **Appendix D** to this report and which officers will highlight during the course of the meeting.
- 3.9 In this final Stage 8 of the review, Committee is asked to consider the draft Constitution as a whole and to review the content against the drafting Principles agreed at the beginning of the process as well as the checklist contained in The Local Government Act 2000 (Constitutions) (England) Direction 2000 and attached at **Appendix E** to this report.

3.9 Should Committee be minded to agree the final draft of the proposed constitution and recommend to Council at its meeting on 12 December that it be approved, then Committee will also be asked to consider that a date for the adoption of the constitution as part of the governance framework for Southend-on-Sea City Council also be recommended to Council.

3.10 It would be prudent for Council to adopt the constitution in two phases, the first being the whole of the constitution as agreed and recommended by Committee, except for those parts which provide for the number of Members on Committees and any associated provisions and the second being all those provisions which stipulate the numbers of Members on Committees. Committee is referred to Section 4 (Annual Council) of Part 2 (The Council) of the draft constitution which sets out that the appointment of and allocation of seats to Committees will take place at Annual Council.

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.

7. 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
10.2 **Appendix B:** Final draft of the whole proposed constitution
10.3 **Appendix C:** Proposed remit for Overview and Scrutiny Committees
10.2. **Appendix D:** Control List of Changes
10.3. **Appendix E:** Checklist

11. Report Authorisation

11.1

This report has been approved for publication by:		
	Name:	Date:
S151 Officer	Joe Chesterton	18/11/2024
Monitoring Officer	Susan Zeiss	18/11/2024
Executive Director(s)	Claire Shuter	18/11/2024
Relevant Cabinet Member(s)	Cllr Daniel Cowan	18/11/2024